

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

CloudofChange, LLC,

Plaintiff,

v.

Lightspeed POS Inc.,

Defendant.

Case No. 6:21-cv-01102

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff CloudofChange, LLC (“CloudofChange” or “COC” or “Plaintiff”) files this Original Complaint for Patent Infringement against Defendant Lightspeed POS Inc. (“Lightspeed” or “Defendant”).

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq.* This action involves U.S. Patent No. 9,400,640 (the “’640 Patent”) and U.S. Patent No. 10,083,012 (the “’012 Patent”). *See* Ex. A (the ’640 Patent), Ex. B (the ’012 Patent).

PARTIES

2. Plaintiff CloudofChange, LLC is a New York limited liability company having its principal place of business at 7 Mansion St., Suite 215, Poughkeepsie, New York 12601. Plaintiff CloudofChange, LLC is the owner by assignment of the ’640 Patent and the ’012 Patent.

3. Defendant Lightspeed POS Inc. is a foreign organization incorporated in Canada having its principal place of business at 700 Saint-Antoine Street East, Suite 300, Montréal, Québec, Canada H2Y 1A6. Defendant Lightspeed may be served through its registered agent—

Corporation Service Company, 251 Little Falls Drive, Wilmington, New Castle County, Delaware 19808-1674.

4. Defendant acquired ShopKeep Inc. on November 25, 2020, and the operations of ShopKeep Inc. were consolidated with those of Defendant. Ex. C, ShopKeep Acquisition Press Release; Ex. D, ShopKeep Home Page (“ShopKeep POS is now ShopKeep by Lightspeed” and “Are ShopKeep and Lightspeed the same company? Yes, ShopKeep is now part of Lightspeed.”); Ex. E, Lightspeed Annual Report, p. 137 (“The results of operations of ShopKeep have been consolidated with those of the Company as at [sic] November 25, 2020.”).

5. Defendant acquired Upserve Inc. on December 1, 2020, and the operations of Upserve Inc. were consolidated with those of Defendant. Ex. F, Upserve Acquisition Press Release; Ex. E, p. 139 (“The results of operations of Upserve have been consolidated with those of the Company as at [sic] December 1, 2020.”); Ex. G, Upserve Home Page (“Upserve is now Upserve by Lightspeed!”).

6. Defendant acquired Vend Limited on April 16, 2021. Ex. H, Vend Acquisition Press Release; Ex. I, Vend Home Page (“Vend by Lightspeed”; “Vend is now Vend by Lightspeed”; “Are Vend and Lightspeed the same company? Yes, Vend is now part of the Lightspeed family.”).

JURISDICTION

7. This Court has original subject matter jurisdiction over this action in accordance with 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.*

8. On information and belief, the Court has specific personal jurisdiction over Defendant because Lightspeed: (i) has purposefully directed activities to residents of the forum,

(ii) the patent infringement claim arises out of or relates to those directed activities, and (iii) the assertion of personal jurisdiction is reasonable and fair. *See NCS Multistage v. TCO AS*, 2021 U.S. Dist. LEXIS 101261 *3-4 (W.D. Tex., May 28, 2021) (citing *Nuance Commc'ns, Inc. v. Abbyy Software House*, 626 F.3d 1222, 1231 (Fed. Cir. 2010)).

9. Defendant Lightspeed has directed activities to residents of the forum by making, using, importing, selling and/or offering for sale Accused Products to residents in the Western District of Texas, and as such, Plaintiff's patent infringement claim arises out of and/or relates to those activities.

10. The Accused Products¹ include: (i) Lightspeed Retail, (ii) Lightspeed Restaurant, (iii) ShopKeep by Lightspeed ("ShopKeep POS"), (iv) Upserve by Lightspeed ("Upserve POS"), (v) Vend by Lightspeed ("Vend POS").

11. For example, Defendant markets the Accused Products to customers in Texas via the following websites:

Accused Products	Website
Lightspeed Retail	https://www.lightspeedhq.com/pos/retail/
Lightspeed Restaurant	https://www.lightspeedhq.com/pos/restaurant/
ShopKeep by Lightspeed	https://www.lightspeedhq.com/shopkeep/
Upserve by Lightspeed	https://upserve.com/lightspeed/
Vend by Lightspeed	https://www.vendhq.com/vend-by-lightspeed

12. Further, Defendant's own marketing spotlights customers in the Western District of Texas, and Defendant's retailers promote the Defendant's Accused Products in the Western District of Texas:

¹ The Accused Products include Lightspeed Golf to the extent Lightspeed Golf includes Lightspeed Retail and/or Lightspeed Restaurant. *See, e.g.*, <https://www.lightspeedhq.com/golf/>.

Accused Products	Customers/Retailers	Address
Lightspeed Retail	Brunmillers Soapworks & Shop ²	212 E. Alamo St., Brenham, TX 77833
Lightspeed Restaurant	Five Guys Enterprises LLC ³	4301 W. William Cannon Dr. E-200, Austin, TX 78749
ShopKeep by Lightspeed	Merchant Equipment Store ⁴	2309 Westrock Dr., Austin, TX 78704
Upserve by Lightspeed	Two Bros. BBQ Market ⁵	12656 West Ave., San Antonio, TX 78216
Vend by Lightspeed	Limbo Jewelry Design LLC ⁶	1708 S. Congress Ave., Austin, TX 78704

13. Additionally, Defendant Lightspeed has established an Expert Program where local Experts in the Western District of Texas can be contacted for support services related to Lightspeed Retail and Lightspeed Restaurant including: “On-premise Installation,” “Support Specialist,” “Training & On-boarding Consultant,” “Local Sales Representative,” and “Integration Partner.”



² O’Neil, Meghan, “A Hybrid Model: Adding a Human Touch with Technology,” Lightspeed, April 29, 2021, available at: <https://www.lightspeedhq.com/blog/brunmillers-soapworks-and-shop/> (last visited October 18, 2021).

³ “Five Guys-Powered by Lightspeed since 2019,” Lightspeed, available at: <https://www.lightspeedhq.com/customers/five-guys/> (last visited October 18, 2021).

⁴ “Shopkeep iPad POS for the iPad and Mac computers,” available at: <https://www.merchantequip.com/pos/shopkeeppos/> (last visited October 18, 2021).



⁵ Loomis, Laura, “They Said I Couldn’t Be a Texas BBQ Pitmaster. I Proved Them Wrong.” Upserve by Lightspeed, August 23, 2017, available at: <https://upserve.com/restaurant-insider/said-couldnt-texas-bbq-pitmaster-proved-wrong/> (last visited October 18, 2021).

⁶ “Vend helps Limbo Jewelry sell in-store and on the go,” Vend by Lightspeed, available at: <https://www.vendhq.com/customers/limbo-jewelry> (last visited October 18, 2021).

SilverEdge, Marketing 360 Payments [Texas]

SilverEdge believes in only offering POS payment technologies that increase the profit and efficiencies of our clients. From cutting-edge tablet solutions to fully equipped terminals, we have a payment technology solution that perfectly fits your business. Whether you are a multi-location restaurant or a single retail boutique store, our secure and reliable POS payment platforms were built with your business in mind, giving you a competitive advantage.







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Spillover

In a constantly changing industry, Spillover provides the tools and the expertise needed to capture the attention of customers and to harness their buying behavior. Spillover ENGAGE empowers restaurants to listen and communicate with their customers, creating brand loyalty all from one platform that is seamlessly integrated with Lightspeed POS.

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Id.




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Restaurant services

- Local Sales Representative

Id.

14. Plaintiff CloudofChange contends that Defendant's websites, marketing, retailers, and Expert Program are indicative of (i) Lightspeed's intent to direct activities from which the patent infringement claims arise to residents of the forum; and (ii) Lightspeed's foresight that goods may end up in the forum state.

15. Indeed, Defendant's marketing of their own customers in the Western District of Texas is indicative of not only Defendant's intent to market to other customers in the Western District of Texas but also indicative of actual direct activities from which the patent infringement claims arise—selling Accused Products to customers that are part of Defendant's marketing.

16. Further, if Defendant did not intend to make, use, import, sell, and/or offer for sale Accused Products in this district (and elsewhere in the United States), then such Expert Program with Experts in the Western District of Texas would not be necessary for Defendant Lightspeed to establish.

17. Additionally, Lightspeed has at least one employee working in the Western District of Texas—Mr. Hani Shabsigh, Director of Product Management at Lightspeed HQ, is located in Austin, Texas.⁷ Mr. Shabsigh previously worked at ShopKeep as Director of Product Management. Following the acquisition of ShopKeep by Lightspeed, Mr. Shabigh worked as a Group Product Manager, prior to his current role as Director of Product Management at Lightspeed.

18. Further, Lightspeed has job postings for employment positions in Texas. For example, Lightspeed has the following employment opportunities in Dallas, Texas: (i) Sales Account Executive, (ii) Territory Account Executive, (iii) Java Developer II, and (iv) Customer Support Specialist.⁸

⁷ LinkedIn Profile for Hani Shabsigh, available at: <https://www.linkedin.com/in/hanishabsigh/>, (last visited on: October 18, 2021).

⁸ Lightspeed Job Postings, available at: <https://www.lightspeedhq.com/careers/overview/dallas/>, (last visited on: October 18, 2021).

VENUE

19. Venue is proper in this judicial district under 28 U.S.C. § 1391(c) as Defendant Lightspeed is “not a resident of the United States and may be sued in any judicial district.” *See In re HTC*, 889 F.3d 1349, 1357 (Fed. Cir. 2018).

FACTUAL BACKGROUND

20. This case involves technology for web-based building and configuration of a point of sale system. Ex. A, ’640 Patent, at Abstract. In particular, the technology includes a web-based POS builder that “can assist non-expert business operators in building, editing and testing a point of sale system to manage their businesses” which can “range from a single branch to a large chain of stores or branches.” *Id.*

21. Historically, “practice in the field of assembling point of sale systems includes manually coding front-of-screen information ... by a business expert with the help of a programmer or data expert.” *Id.* at 1:20-26. Further, POS systems assembled manually are prone to mistakes and difficult to change. *See id.* at 1:33-35. As such, prior to the Plaintiff’s patents, “store owners tend[ed] to retain older, inaccurate, out-of-date POS screens in order to avoid the POS screen editing process.” *Id.* at 1:35-38.

22. Plaintiff CloudfChange has U.S. patents directed to innovations in assembling POS systems including the ’640 Patent and the ’012 Patent. The named inventors of the ’640 Patent and the ’012 Patent are Wayne Baratta and Quentin Olson, who are the two founders of CloudfChange.

23. The ’640 Patent generally describes and claims a web-based POS builder system that includes one or more point of sale terminals, an internet connection, one or more local or remote PC workstations, and point of sale builder software. The use of the web-based POS builder

system described and claimed in the '640 Patent reduces the need for manually coding POS systems with the help of a programmer or a data expert.

24. On information and belief, Lightspeed has begun making, using, importing, selling and/or offering for sale products in this district and elsewhere in the United States that infringe the '640 Patent literally, directly or indirectly, or under the doctrine of equivalents, including: (i) Lightspeed Retail, (ii) Lightspeed Restaurant, (iii) ShopKeep by Lightspeed, (iv) Upserve by Lightspeed, and (v) Vend by Lightspeed.

25. The '012 Patent generally describes and claims a web-based POS builder system that includes a web server, one or more POS terminals, and a POS builder interface. The use of the web-based POS builder system described and claimed in the '012 Patent reduces the need for manually coding POS systems with the help of a programmer or a data expert.

26. On information and belief, Lightspeed has begun making, using, importing, selling and/or offering for sale products in this district and elsewhere in the United States that infringe the '012 Patent literally, directly or indirectly, or under the doctrine of equivalents, including the Accused Products, as specifically discussed herein.

27. Plaintiff CloudfChange, through its counsel, sent a Notice Letter to (i) ShopKeep Inc. dated October 6, 2017 via USPS Certified Mail (Tracking #7014 2120 0001 0450 3376), (ii) Upserve, Inc. dated May 3, 2018 via USPS Certified Mail (Tracking #7016 1370 0001 5993 4112), and (iii) Vend Limited dated January 19, 2018 via USPS Certified Mail (Tracking #7015 0640 0007 3760 9616). Defendant has since acquired ShopKeep Inc., Upserve, Inc., and Vend Limited. On information and belief, Defendant's infringement has been willful at least since its acquisition of ShopKeep.

28. Additionally, Plaintiff has previously sought to protect the '640 Patent and '012 Patent through litigation in this Court. Plaintiff filed a patent infringement claim against NCR Corporation, and the Court entered judgment that NCR Corporation willfully infringed the valid claims of the '640 Patent and '012 Patent. *CloudfChange, LLC v. NCR Corporation*, 6-19-CV-00513-ADA, Dkt. 188 (W.D. Tex., Jul. 13, 2021).

COUNT I
(INFRINGEMENT OF U.S. PATENT NO. 9,400,640)

29. Plaintiff incorporates herein all paragraphs above by reference.

30. Plaintiff CloudfChange, inventor Wayne Baratta, and inventor Quentin Olson have invested a substantial amount of time and money to develop improvements for the point of sale systems industry, including web-based point of sale builder systems.

31. As part of those efforts, on February 5, 2008, a non-provisional application was filed with the United States Patent and Trademark Office describing a web-based point of sale builder system. On July 26, 2016, the United States Patent and Trademark Office issued the '640 Patent, titled "Web-Based Point of Sale Builder." Plaintiff CloudfChange is the owner through assignment of the '640 Patent.

32. The '640 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

33. The claims of the '640 Patent are directed to a web-based point of sale (POS) builder system, which comprises patent-eligible subject matter. The claims of the '640 Patent are not directed to an abstract idea, a law of nature, or a natural phenomenon. The claims are directed to a particular web-based point of sale builder system comprising a particular software architecture with particular hardware elements. For example, the web-based point of sale builder system includes one or more point of sale terminals that display POS screens, an internet connection from

said one or more point of sale terminals to a web server, one or more local or remote PC workstations, and a point of sale builder software that runs on said web server. The claims of the '640 Patent, considered as a whole, at the time of the invention were neither routine, conventional, nor well known. The claims of the '640 Patent provide a technical solution to a technical problem. For example, as explained in the Specification, “[c]urrently in the prior art, a touch screen as shown in FIG. 1 is manually configured by a programmer who knows the specific proprietary point of sale system used by a store or business. ... In this invention, this product data and the touch key structure is stored in relational databases in the back office which is stored on the web servers 36 shown in FIG. 3.” Ex. A at 2:42-52.

34. Lightspeed has committed acts of direct infringement of the '640 Patent under 35 U.S.C. § 271(a) at least by making, using, selling, offering to sell, and/or importing into the United States the Accused Products, as described herein.

35. In addition to direct infringement of the '640 Patent through making, using, selling, offering to sell, and/or importing into the United States the Accused Products, the use of the Accused Products by others, as intended by Lightspeed and in accordance with the instructions provided by Lightspeed, directly infringes the '640 Patent. In particular, Lightspeed sells and/or leases the Accused Products to customers in the United States with the expectation and intent that such customers will use the Accused Products, thereby directly infringing the '640 Patent. As such, Lightspeed has induced infringement of the '640 Patent under 35 U.S.C. § 271(b).

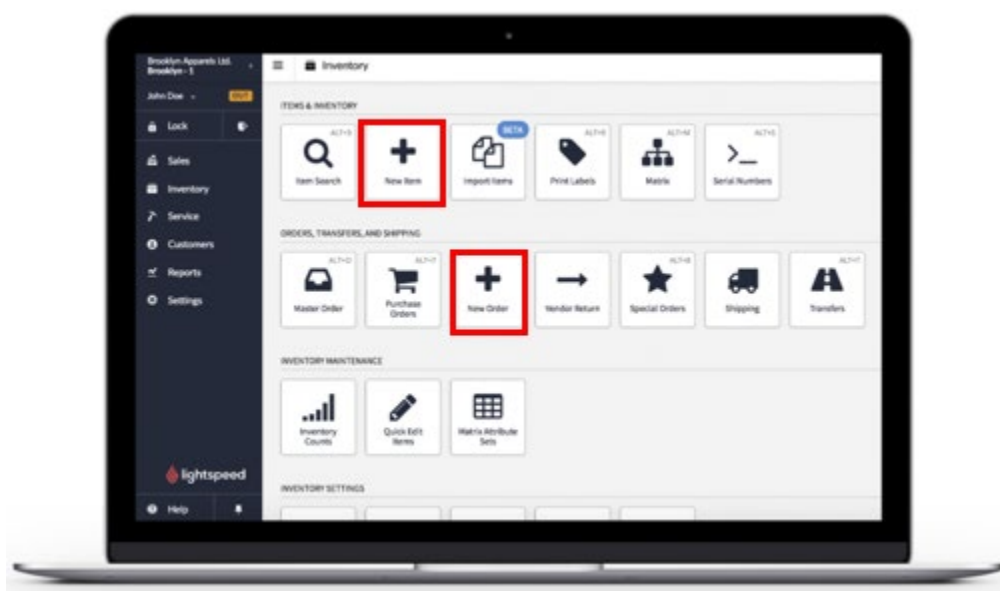
36. Further, since the Accused Products infringe the '640 Patent, any use or sale thereof infringes the '640 Patent. As such, Lightspeed's sale and/or lease and offering for sale and/or lease of the Accused Products also constitutes contributory infringement of the '640 Patent under 35 U.S.C. § 271(c).

37. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims including at least Claim 1 of the '640 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which include a web-based point of sale (POS) builder system as described in the '640 Patent. Specifically, the Accused Products comprise one or more point of sale terminals, that display POS screens, an internet connection from said one or more point of sale terminals to a web server, one or more local or remote PC workstations, and point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web as described in the '640 Patent. Further, the Accused Products include wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor's remote servers and wherein subscriber company's POS terminals access and repeatedly interact with said web server software from said vendor's remote servers, in order to perform the subscriber's desired terminal function, over a network, wherein the network comprises the Internet as described in the '640 Patent.

38. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '640 Patent by making, using, selling, offering to sell, and/or importing the following Accused Products, which include a web-based point of sale (POS) builder system:

39. Lightspeed Retail includes a web-based point of sale (POS) builder system as described in Ex. K1, Lightspeed Cloud POS System ("Lightspeed Retail's cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it's all on the cloud," "An all-in-one cloud-based POS system for retail," and "Can I

access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”); Ex. K2, Lightspeed POS Manual (“As a Lightspeed Retail POS merchant, one of the ways you can access your account is from a web browser...”):



See also Ex. K3, TechCrunch Article (“‘App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. K4, Lightspeed Retail App, (illustrating the Lightspeed Retail app in the Apple Store).

40. On information and belief, Lightspeed Restaurant includes a web-based point of sale (POS) builder system as described in Ex. K1 (“Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android.... For

Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale's front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”):

The cloud-based restaurant point of sale system that puts you in charge anywhere.

With Lightspeed, the only servers in your restaurant are your waitstaff. Say goodbye to clunky hardware and move to a cloud-based system to keep access to your entire business no matter where you go.

- ✓ Make **menu edits in seconds** and add new modifiers, combos and items
- ✓ Check on your **sales and performance** from your mobile POS with real-time cloud-based data
- ✓ Manage **multiple locations** from one system with Lightspeed's centralized cloud database

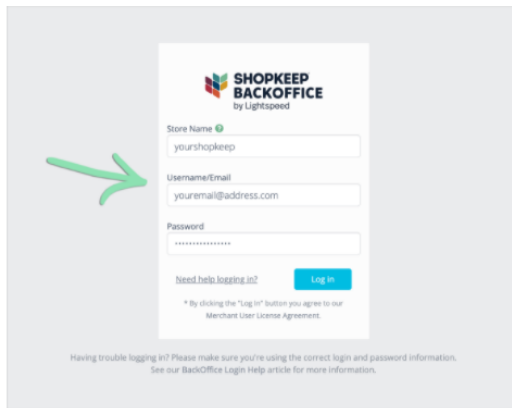
See also Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. K5, Lightspeed Restaurant App (illustrating the Lightspeed Restaurant app in the Apple Store).

41. ShopKeep by Lightspeed includes a web-based point of sale (POS) builder system as described and illustrated in Ex. L1, BackOffice Overview, for example:

Log Into BackOffice

Log into BackOffice to add inventory, set up permissions and settings, view reporting, and manage your ShopKeep store.

- 1 Visit ShopKeepApp.com from a [supported device and web browser](#).
Bookmark this page in your browser so it is easier to find later.
- 2 Enter your BackOffice login information.



See also Ex. L2, Build Menu:

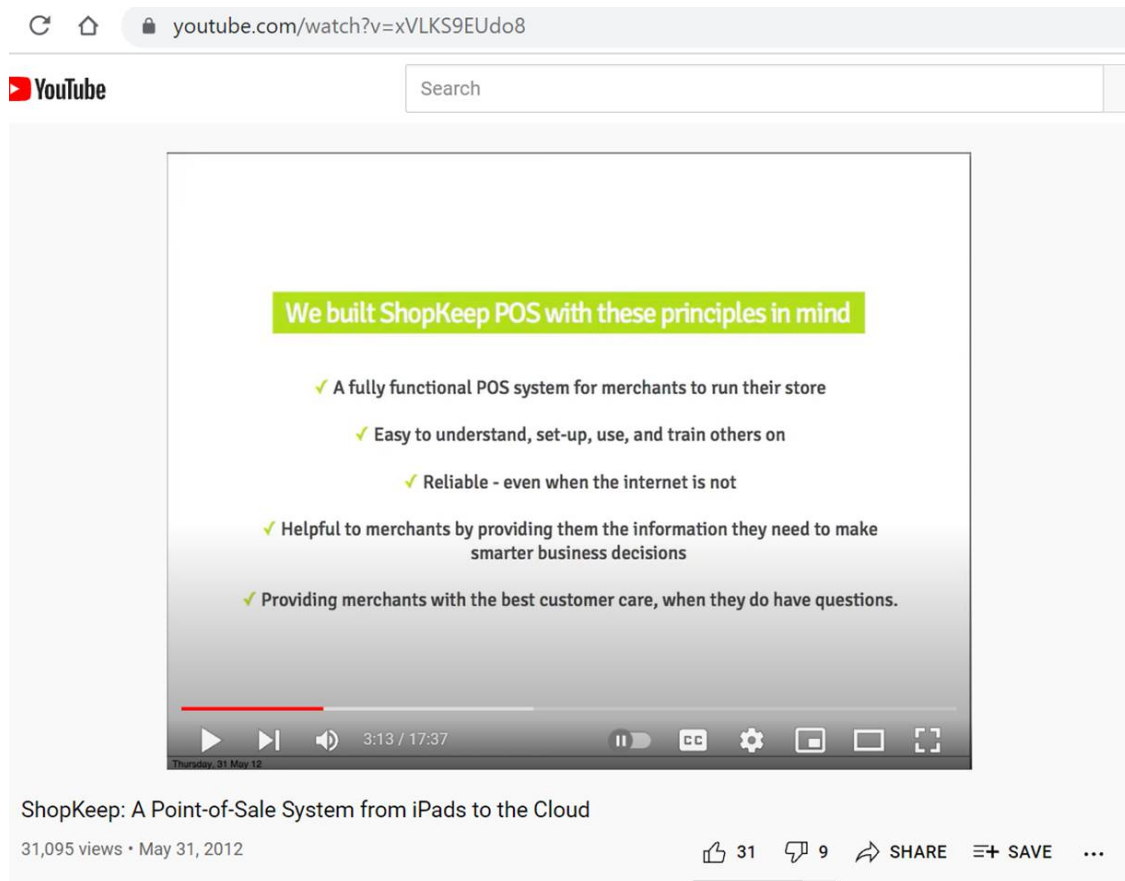
Build Your Menu

Before servers can start taking orders, you need to set up your menu in BackOffice or from the ShopKeep Register app (employees with the relevant BackOffice permissions only). Learn how to add the dishes you sell, add modifiers to cover every order option, and create item shortcuts for the register so staff can find what they need.

If you have questions about adding or managing menu items, visit our [Inventory FAQ](#).

See also Ex. L3, Add Item (“Basic inventory items are goods sold individually without multiple variations, such as different colors or materials. Add new basic items from BackOffice or the ShopKeep Register app to be able to sell them at the register and via other ShopKeep sales channels.”); Ex. L4, BackOffice Practices (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.... BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”; “BackOffice is the online portal where

merchants manage their businesses in ShopKeep.”); Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’ When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. L5, ShopKeep App (illustrating the ShopKeep by Lightspeed app in the Apple Store); *see also* ShopKeep Podcast⁹:



42. Upserve by Lightspeed includes a web-based point of sale (POS) builder system as described in Ex. M1, Upserve Hardware (“Upserve POS is the industry-leading cloud-based point-

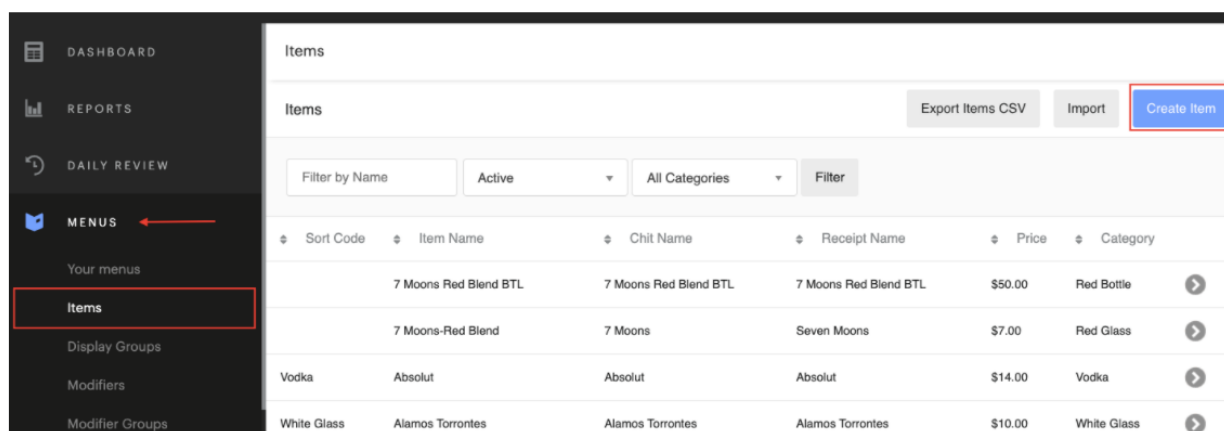
⁹ “ShopKeep: A Point-of-Sale System from iPads to the Cloud,” InsideHPC Report, YouTube, available at: <https://www.youtube.com/watch?v=xVLKS9EUdo8>, (last visited on: October 22, 2021) (“ShopKeep Podcast”).

of-sale system used by thousands of restaurants”); Ex. M2, Upserve Login (illustrating Upserve Login) and Ex. M3, Create Item (describing how to create an item in the back office):

Create an Item

- Log into [HQ](#)
- Click on **Menus > Item**
- Click **Create Item**

Note: In order to edit Menus, you must have access to HQ and **your user profile must be assigned to a point of sale role that has HQ Access > Menus enabled**. To learn more about Users and Roles, see [Creating Users & Roles in New Upserve HQ](#).



See also Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. M4, Upserve App (illustrating Upserve app in the Apple Store).

43. Vend by Lightspeed includes a web-based point of sale (POS) builder system as described in Ex. N1, Vend POS Tour (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screen using Quick Keys to access your most popular products faster”); Ex. N7,

Vend Overview (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); *see also* Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. N2, Vend App (illustrating Vend app in the Apple Store).

44. Lightspeed has infringed and continues to infringe literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’640 Patent by making, using, selling, offering to sell, and/or importing the following Accused Products, which includes one or more point of sales terminals, that display POS screens:

45. Lightspeed Retail includes one or more point of sales terminals, that display POS screens as illustrated in Ex. K1:

Retail POS hardware designed for the cloud.

Get transactional fast with sleek retail POS system hardware options. Enhance your wireless experience with iPad-compatible printers, cash drawers and bluetooth scanners that work together seamlessly.

[Learn more >](#)



46. On information and belief, Lightspeed Restaurant includes one or more point of sale terminals, that display POS screens as illustrated in Ex. K1:

iPad POS hardware designed for the cloud.

Our restaurant iPad hardware options are designed to handle the hustle and bustle of busy shifts. And with the LiteServer, you can stay connected to your cloud-based data, even if the wifi goes down.

[Learn more >](#)



47. ShopKeep by Lightspeed includes one or more point of sale terminals, that display POS screens as illustrated in Ex. L6, Best Practices – Tablet:



48. Upserve by Lightspeed includes one or more point of sale terminals, that display POS screens as illustrated in Ex. M5, Upserve Costs:



49. Vend by Lightspeed includes one or more point of sale terminals, that display POS screens as illustrated in Ex. N1:

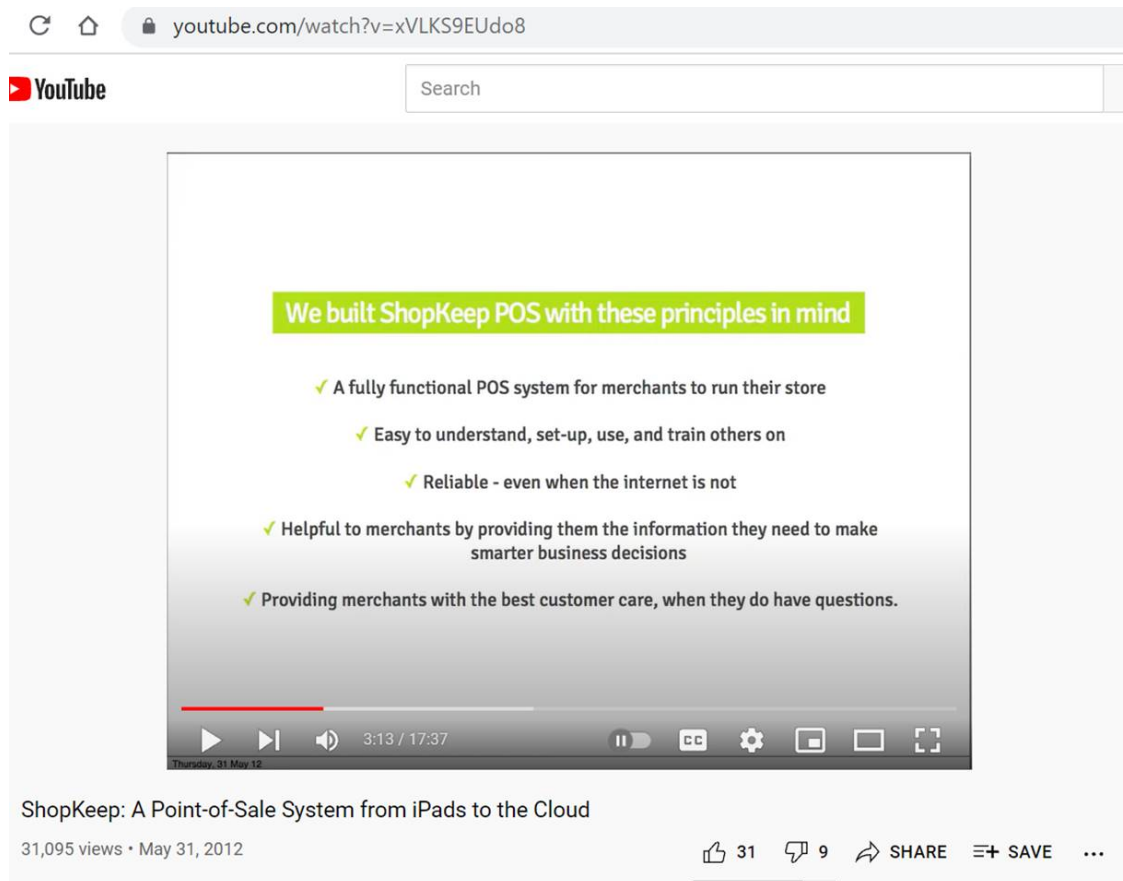


50. Lightspeed has infringed and continues to infringe literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '640 Patent by making, using, selling, offering to sell, and/or importing the following Accused Products, which includes an internet connection from said one or more point of sale terminals to a web server:

51. Lightspeed Retail includes an internet connection from said one or more point of sale terminals to a web server as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”).

52. On information and belief, Lightspeed Restaurant includes an internet connection from said one or more point of sale terminals to a web server as described in Ex. K1 (“Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android.... For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale’s front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”).

53. ShopKeep by Lightspeed includes an internet connection from said one or more point of sale terminals to a web server as described in Ex. L7, Best Practices – Network (“[m]ake sure you have a strong enough internet connection.”) and Ex. L8, ShopKeep FAQ (“...an active internet connection is required to process credit cards and sync register data to BackOffice”); *see also* ShopKeep Podcast (referencing ShopKeep’s cloud servers):



54. Upserve by Lightspeed includes an internet connection from said one or more point of sale terminals to a web server Ex. M5 (describing Upserve by Lightspeed as “Upserve’s cloud-based Restaurant POS system...”) and Ex. M6 (“[a] cloud-based restaurant POS is a point of sale system for restaurants that relies on an internet connection rather than the closed ‘on-premises’ networks of a traditional POS.”); *see also, e.g.*, Ex. M2.

55. Vend by Lightspeed includes an internet connection from said one or more point of sale terminals to a web server as described in Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screen using Quick Keys to access your most popular products faster”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); Ex. N3, Vend Support – Internet (“Vend will not operate without an internet connection if you have not completed an initial sync. You also won’t be able to use Vend in Offline Mode if you weren’t logged into your store before the internet connection was lost.”); Ex. N4, Vend Login (illustrating Vend Login).

56. Lightspeed has infringed and continues to infringe literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’640 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes one or more local or remote PC workstations.

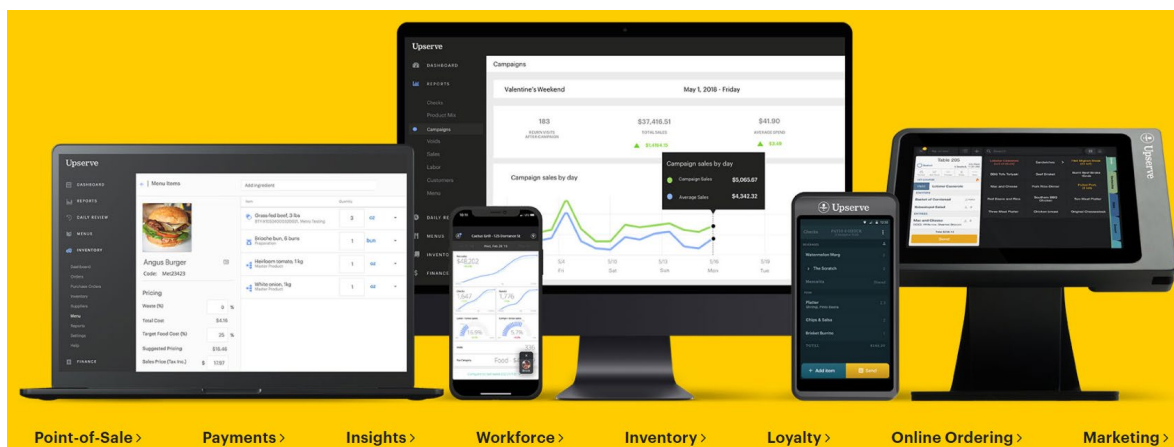
57. Lightspeed Retail includes one or more local or remote PC workstations as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or

through the Lightspeed Retail iPad app.”); Ex. K6, Workstation (“Tailored retail POS system hardware bundles for your iPad and Mac or PC desktop workstations.”).

58. On information and belief, Lightspeed Restaurant includes one or more local or remote PC workstations as described in Ex. K1 (“With Lightspeed Restaurant’s cloud software, you don’t need to be on-site to make it happen. Desktop or iPad, your business follows you wherever you go.” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android.... For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale’s front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”).

59. ShopKeep by Lightspeed includes one or more local or remote PC workstations as described in Ex. L4 (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.”; “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”).

60. Upserve by Lightspeed includes one or more local or remote PC workstations as illustrated in Ex. M7, Upserve POS Overview:



61. Vend by Lightspeed includes one or more local or remote PC workstations as illustrated in Ex. N1:



See also N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”).

62. Lightspeed has infringed and continues to infringe literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’640 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web:

63. Lightspeed Retail includes point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud” and “Can I access everything

remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”); Ex. K2 (“As a Lightspeed Retail POS merchant, one of the ways you can access your account is from a web browser...”); Ex. K7, Adding an Item (stating items can be added manually two ways: Desktop or iPad); Ex. K8, Editing Items indicating:

Editing items

To quickly edit groups of items

1. From the main menu, click **Inventory** > **Quick Edit Items**.
2. Filter on the **criteria** for the items you want to display and click **Search**.

NOTE: You can click **Advanced** to do an advanced search.

3. Edit the **fields** from your search results. As you make changes to the items, they are saved.

See also Ex. K9, Creating an Item:



To add items to your inventory

1. To add a new item:
 - From the main menu: click **Inventory > New Item**.
 - During a sale: from the main menu, click **Sales > New Sale > +New**.
2. Enter the item details.
3. After you save the item, you can access the left menu to add inventory and vendor ID details:
 - Use *Inventory* to add stock.
 - Use *Vendor IDs* to add identification numbers for your vendors and specify the default cost for each vendor.

64. On information and belief, Lightspeed Restaurant includes point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web as described in Ex. K1 (“Last-minute menu changes? With Lightspeed Restaurant’s cloud software, you don’t need to be on-site to make it happen. Desktop or iPad, your business follows you wherever you go.” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android.... For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale’s front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”):

The cloud-based restaurant point of sale system that puts you in charge anywhere.

With Lightspeed, the only servers in your restaurant are your waitstaff. Say goodbye to clunky hardware and move to a cloud-based system to keep access to your entire business no matter where you go.

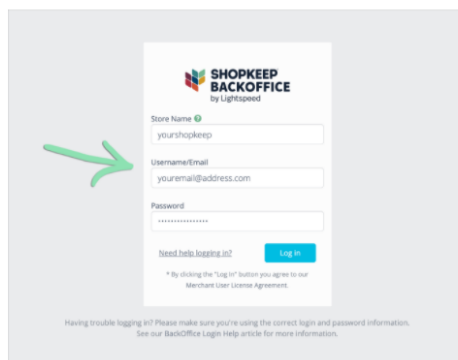
- ✓ Make **menu edits in seconds** and add new modifiers, combos and items
- ✓ Check on your **sales and performance** from your mobile POS with real-time cloud-based data
- ✓ Manage **multiple locations** from one system with Lightspeed's centralized cloud database

65. ShopKeep by Lightspeed includes point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web as described in Ex. L1:

Log Into BackOffice

Log into BackOffice to add inventory, set up permissions and settings, view reporting, and manage your ShopKeep store.

- 1 Visit ShopKeepApp.com from a [supported device and web browser](#).
Bookmark this page in your browser so it is easier to find later.
- 2 Enter your BackOffice login information.



The screenshot shows the ShopKeep BackOffice login interface. At the top is the ShopKeep logo with the text 'SHOPKEEP BACKOFFICE by Lightspeed'. Below the logo are three input fields: 'Store Name' (with a dropdown arrow), 'Username/Email', and 'Password'. A green arrow points to the 'Store Name' field. Below the password field is a link that says 'Need help logging in?'. To the right of the password field is a blue 'Login' button. At the bottom, there is a small disclaimer: '* By clicking the "Log In" button you agree to our Merchant User License Agreement.' At the very bottom, there is a link: 'Having trouble logging in? Please make sure you're using the correct login and password information. See our BackOffice Login Help article for more information.'

See also Ex. L2:

Build Your Menu

Before servers can start taking orders, you need to set up your menu in BackOffice or from the ShopKeep Register app (employees with the relevant BackOffice permissions only). Learn how to add the dishes you sell, add modifiers to cover every order option, and create item shortcuts for the register so staff can find what they need.

If you have questions about adding or managing menu items, visit our [Inventory FAQ](#).

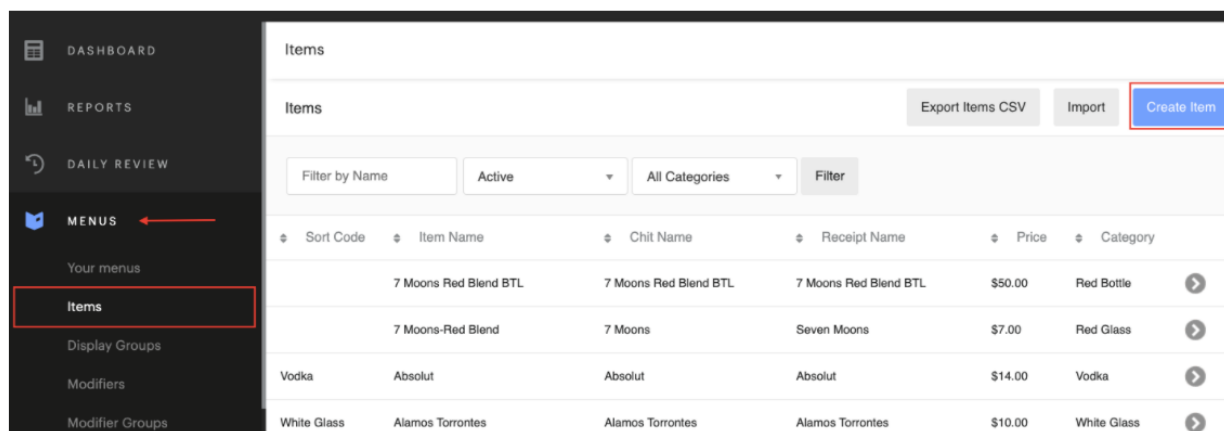
See also Ex. L3 (“Basic inventory items are goods sold individually without multiple variations, such as different colors or materials. Add new basic items from BackOffice or the ShopKeep Register app to be able to sell them at the register and via other ShopKeep sales channels.”); Ex. L4 (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.... BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”; “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”).

66. Upserve by Lightspeed includes point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web as described in Ex. M1 (“Upserve POS is the industry-leading cloud-based point-of-sale system used by thousands of restaurants”); Ex. M2 (illustrating Upserve Login) and Ex. M3 (describing how to create an item in the back office):

Create an Item

- Log into [HQ](#)
- Click on **Menus > Item**
- Click **Create Item**

Note: In order to edit Menus, you must have access to HQ and **your user profile must be assigned to a point of sale role that has HQ Access > Menus enabled**. To learn more about Users and Roles, see [Creating Users & Roles In New Upserve HQ](#).



67. Vend by Lightspeed includes point of sale builder software that runs on said web server, wherein said local or remote workstations are utilized to build or edit said POS terminals in real time, from anywhere in the world and over the worldwide web as described in Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screens using Quick Keys to access your most popular products faster.”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”).

68. Lightspeed has infringed and continues to infringe literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’640 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which

includes wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor's remote servers and wherein subscriber company's POS terminals access and repeatedly interact with said web server software from said vendor's remote servers, in order to perform the subscriber's desired terminal function, over a network, wherein the network comprises the Internet:

69. Lightspeed Retail includes wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor's remote servers and wherein subscriber company's POS terminals access and repeatedly interact with said web server software from said vendor's remote servers, in order to perform the subscriber's desired terminal function, over a network, wherein the network comprises the Internet as described in Ex. K10, Retail Pricing:

	Lean	Standard	Advanced	Enterprise
	For your essential business needs.	Ideal for omnichannel businesses.	More tools for businesses looking to go further.	High volume merchants and large businesses.
	79 USD /mo	139 USD /mo	239 USD /mo	
	Select	Select	Select	Get a quote
PRODUCTS				Everything in the advanced plan
Retail POS	✓	✓	✓	+
Registers Additional registers + 29 USD/mo	1 Register	1 Register	1 Register	Unlimited personalized onboarding and launch services
				Personalized consultation services

See also Ex. K2 (“As a Lightspeed Retail POS merchant, one of the ways you can access your account is from a web browser...”); Ex. K7 (stating items can be added manually two ways: Desktop or iPad); Ex. K8; Ex. K9.

70. On information and belief, Lightspeed Restaurant includes wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor's remote servers and wherein subscriber company's POS terminals access and repeatedly interact with said web server software from said vendor's remote servers, in order to perform the subscriber's desired terminal function, over a network, wherein the network comprises the Internet as described in Ex. K11, Restaurant Pricing:

Grow your business with the leading restaurant point of sale

The POS at the core of everything you do.

The fastest, most reliable point of sale backed by industry-leading support experts from every service type.

\$69/mo if billed monthly
Additional registers +\$34/mo

[Talk to an expert](#)



See also Ex. K1.

71. ShopKeep by Lightspeed includes wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor's remote servers and wherein subscriber company's POS terminals access and repeatedly interact with said web server software from said vendor's remote servers, in order to perform the subscriber's desired terminal function, over a network, wherein the network comprises the Internet as described in Ex. L8 :

How much does ShopKeep cost?

Prices vary by account according to the specific pricing package and payment plan selected. Visit our [Manage Account](#) article to learn how to view the billing rate for your individual ShopKeep account.

**Businesses in CO, CT, HI, IA, IL, KY, LA, MA, ME, MD, MI, MN, MO, NE, NJ, NM, NY, OH, OK, PA, RI, SC, SD, TN, TX, WA, WV, WI, and Washington D.C. are subject to state sales tax.*

How does billing work?

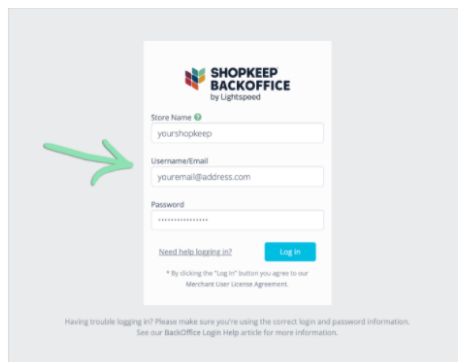
Billing happens either monthly or annually, depending on your plan. Credit cards are the only form of payment we can accept. However, if you purchase an [in-app subscription](#), you can use any payment method supported by the Apple App Store or Google Play Store. Visit our [Manage Account](#) article to learn how to update payment information.

See also Ex. L1:

Log Into BackOffice

Log into BackOffice to add inventory, set up permissions and settings, view reporting, and manage your ShopKeep store.

- 1 Visit [ShopKeepApp.com](#) from a [supported device and web browser](#).
Bookmark this page in your browser so it is easier to find later.
- 2 Enter your BackOffice login information.



The screenshot shows the ShopKeep BackOffice login interface. At the top is the ShopKeep logo with the text 'SHOPKEEP BACKOFFICE by Lightspeed'. Below the logo are three input fields: 'Store Name' (with a green arrow pointing to it), 'Username/Email', and 'Password'. There is a 'Log in' button to the right of the password field. Below the login fields, there is a link 'Need help logging in?' and a small disclaimer: '* By clicking the "Log in" button you agree to our Merchant User License Agreement.' At the bottom, there is a footer note: 'Having trouble logging in? Please make sure you're using the correct login and password information. See our BackOffice Login help article for more information.'

See also Ex. L2:

Build Your Menu

Before servers can start taking orders, you need to set up your menu in BackOffice or from the ShopKeep Register app (employees with the relevant BackOffice permissions only). Learn how to add the dishes you sell, add modifiers to cover every order option, and create item shortcuts for the register so staff can find what they need.

If you have questions about adding or managing menu items, visit our [Inventory FAQ](#).

See also Ex. L3; Ex. L4 (“BackOffice is the online portal where merchants manage their businesses in ShopKeep.”).

72. Upserve by Lightspeed includes wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor’s remote servers and wherein subscriber company’s POS terminals access and repeatedly interact with said web server software from said vendor’s remote servers, in order to perform the subscriber’s desired terminal function, over a network, wherein the network comprises the Internet as described in Ex. M5:

	Upserve
Software & Subscription Costs	\$4,188/ Year
Includes	<ul style="list-style-type: none">• Subscription: Upserve Platform• Upserve Live• 3 Upserve POS licenses• CC Authorization

See also Ex. M2 (illustrating Upserve Login), Ex. M3 (describing how to create an item in the back office, Ex. M5 (describing Upserve by Lightspeed as “Upserve’s cloud-based Restaurant POS system...”) and Ex. M6 (“[a] cloud-based restaurant POS is a point of sale system for restaurants that relies on an internet connection rather than the closed ‘on-premises’ networks of a traditional POS.”).

73. Vend by Lightspeed includes wherein said web servers are provided as a vendor subscription service wherein web server software resides and is hosted on said vendor's remote servers and wherein subscriber company's POS terminals access and repeatedly interact with said web server software from said vendor's remote servers, in order to perform the subscriber's desired terminal function, over a network, wherein the network comprises the Internet as described in Ex. N5:

The screenshot displays three pricing plans for Vend by Lightspeed. The 'Lite' plan is priced at \$99 USD per month (billed annually or \$119 billed monthly) and includes a 'GET STARTED' button. The 'Pro' plan is priced at \$129 USD per month (billed annually or \$159 billed monthly) and includes a 'GET STARTED' button. The 'Enterprise' plan is labeled 'Call us' and includes a 'GET A QUOTE' button. Each plan card also contains a brief description of the features included.

Plan	Price	Button
Lite	\$99 USD (per month billed annually or \$119 billed monthly)	GET STARTED
Pro	\$129 USD (per month billed annually or \$159 billed monthly)	GET STARTED
Enterprise	Call us	GET A QUOTE

See also Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screens using Quick Keys to access your most popular products faster.”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); Ex. N3 (“Vend will not operate without an internet connection if you have not completed an initial sync. You also won’t be able to use Vend in Offline Mode if you weren’t logged into your store before the internet connection was lost.”); Ex. N4 (illustrating Vend Login).

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 10,083,012)

74. Plaintiff incorporates herein all paragraphs above by reference.

75. On September 25, 2018, the United States Patent and Trademark Office issued the '012 Patent. The '012 Patent is a continuation of U.S. Patent Application No. 15/198,117, filed on June 30, 2016, now U.S. Patent No. 9,715,371, which is a continuation of U.S. Patent Application No. 12/012,666, filed on February 5, 2008, now the '640 Patent. CloudfChange is the owner through assignment of the '012 Patent.

76. The '012 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

77. The claims of the '012 Patent are directed to a web-based point of sale (POS) builder system, which comprises patent-eligible subject matter. The claims of the '012 Patent are not directed to an abstract idea, a law of nature, or a natural phenomenon. For example, the claims are directed to a particular web-based point of sale builder system comprising a particular software architecture with particular hardware elements. Specifically, the web-based point of sale builder system includes a web server including POS builder software installed thereon, one or more POS terminals generated by said POS builder software, and a POS builder interface. The claims of the '012 Patent, considered as a whole, at the time of the invention were neither routine, conventional, nor well known. The claims of the '012 Patent provide a technical solution to a technical problem. *See, e.g.,* Ex. B at 2:57-67.

78. Lightspeed has committed acts of direct infringement of the '012 Patent under 35 U.S.C. § 271(a) at least by making, using, selling, offering to sell, and/or importing into the United States the Accused Products, as described herein.

79. In addition to direct infringement of the '012 Patent through making, using, selling, offering to sell, and/or importing into the United States the Accused Products, the use of the Accused Products by others, as intended by Lightspeed and in accordance with the instructions

provided by Lightspeed, directly infringes the '012 Patent. In particular, Lightspeed sells and/or leases the Accused Products to customers in the United States with the expectation and intent that such customers will use the Accused Products, thereby directly infringing the '012 Patent. As such, Lightspeed has induced infringement of the '012 Patent under 35 U.S.C. § 271(b).

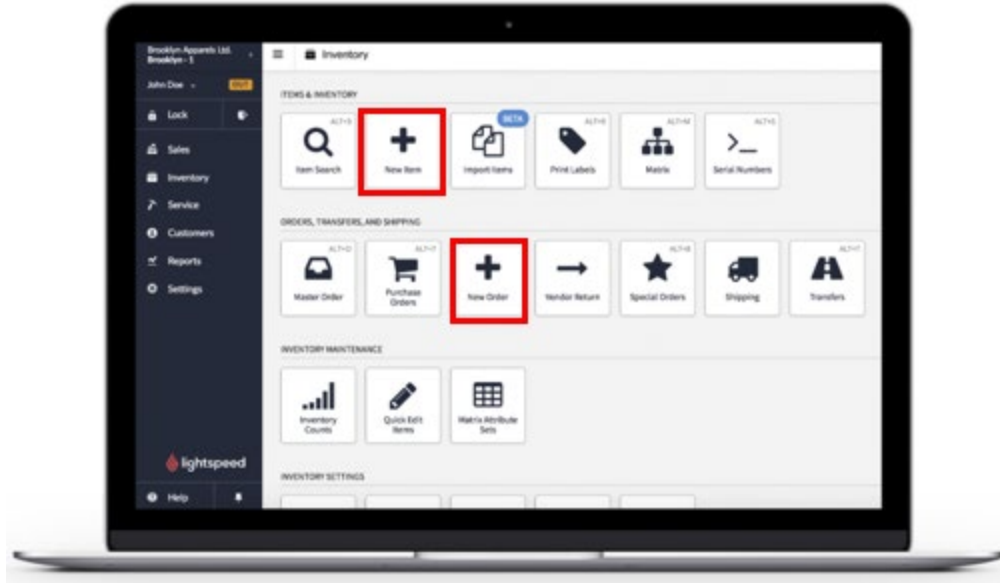
80. Further, since the Accused Products infringe the '012 Patent, any use or sale thereof infringes the '012 Patent. As such, Lightspeed's sale and/or lease and offering for sale and/or lease of the Accused Products constitutes contributory infringement of the '012 Patent under 35 U.S.C. § 271(c).

81. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '012 Patent by the Accused Products, a web-based point of sale (POS) builder system as described in the '012 Patent. Specifically, the Accused Products comprises a web server including POS builder software installed thereon; one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data; and a POS builder interface configured to be accessible via network communication with said web server over a communications network as described in the '012 Patent. Further, the Accused Products include functionality wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network. Further, the Accused Products include functionality wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS

builder interface as described in the '012 Patent. Further, the Accused Products include functionality wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network as described in the '012 Patent. Further, the Accused Products include functionality wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals as described in the '012 Patent.

82. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes a web-based point of sale (POS) builder system.

83. Lightspeed Retail includes a web-based point of sale (POS) builder system as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud”; “An all-in-one cloud-based POS system for retail”; and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device- through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”); Ex. K2 (“As a Lightspeed Retail POS merchant, one of the ways you can access your account is from a web browser...”):



See also Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. K4 (illustrating the Lightspeed Retail app in the Apple Store).

84. On information and belief, Lightspeed Restaurant includes a web-based point of sale (POS) builder system as described in Ex. K1 (“Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android [sic]....For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale’s front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”):

The cloud-based restaurant point of sale system that puts you in charge anywhere.

With Lightspeed, the only servers in your restaurant are your waitstaff. Say goodbye to clunky hardware and move to a cloud-based system to keep access to your entire business no matter where you go.

- ✓ Make **menu edits in seconds** and add new modifiers, combos and items
- ✓ Check on your **sales and performance** from your mobile POS with real-time cloud-based data
- ✓ Manage **multiple locations** from one system with Lightspeed's centralized cloud database

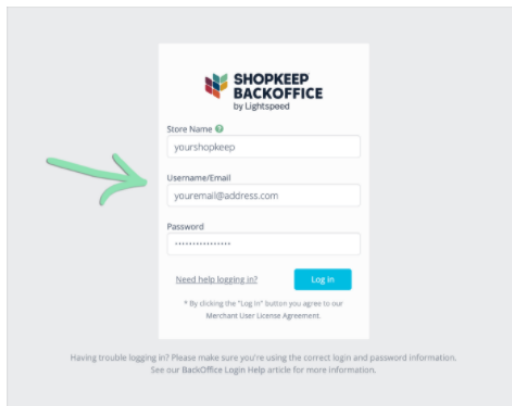
See also Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’....When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. K5 (illustrating the Lightspeed Restaurant app in the Apple Store).

85. ShopKeep by Lightspeed includes a web-based point of sale (POS) builder system as described and illustrated in Ex. L1, for example:

Log Into BackOffice

Log into BackOffice to add inventory, set up permissions and settings, view reporting, and manage your ShopKeep store.

- 1 Visit ShopKeepApp.com from a [supported device and web browser](#).
Bookmark this page in your browser so it is easier to find later.
- 2 Enter your BackOffice login information.



See also Ex. L2:

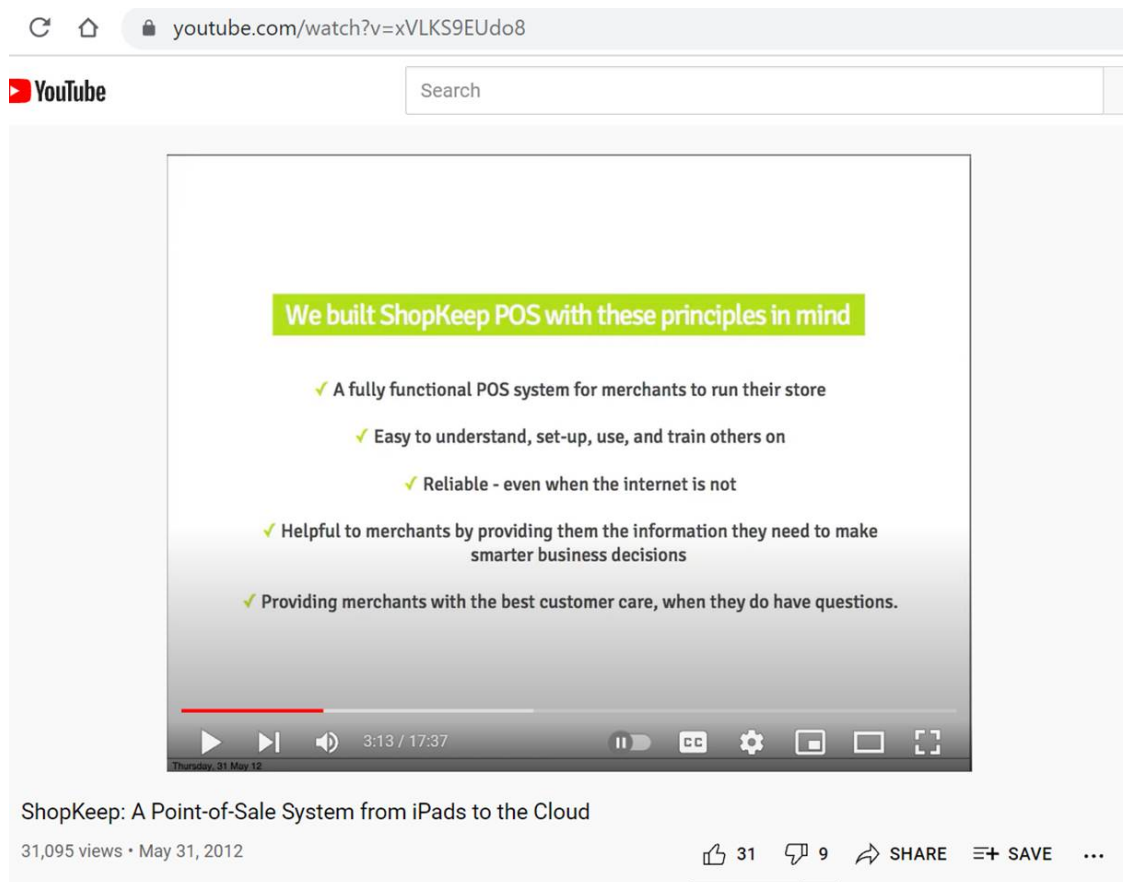
Build Your Menu

Before servers can start taking orders, you need to set up your menu in BackOffice or from the ShopKeep Register app (employees with the relevant BackOffice permissions only). Learn how to add the dishes you sell, add modifiers to cover every order option, and create item shortcuts for the register so staff can find what they need.

If you have questions about adding or managing menu items, visit our [Inventory FAQ](#).

See also Ex. L3 (“Basic inventory items are goods sold individually without multiple variations, such as different colors or materials. Add new basic items from BackOffice or the ShopKeep Register app to be able to sell them at the register and via other ShopKeep sales channels.”); *Ex. L4* (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.... BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”; “BackOffice is the online portal where merchants manage their businesses in

ShopKeep.”); Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’ When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. L5 (illustrating the ShopKeep by Lightspeed app in the Apple Store); *see also* ShopKeep Podcast:

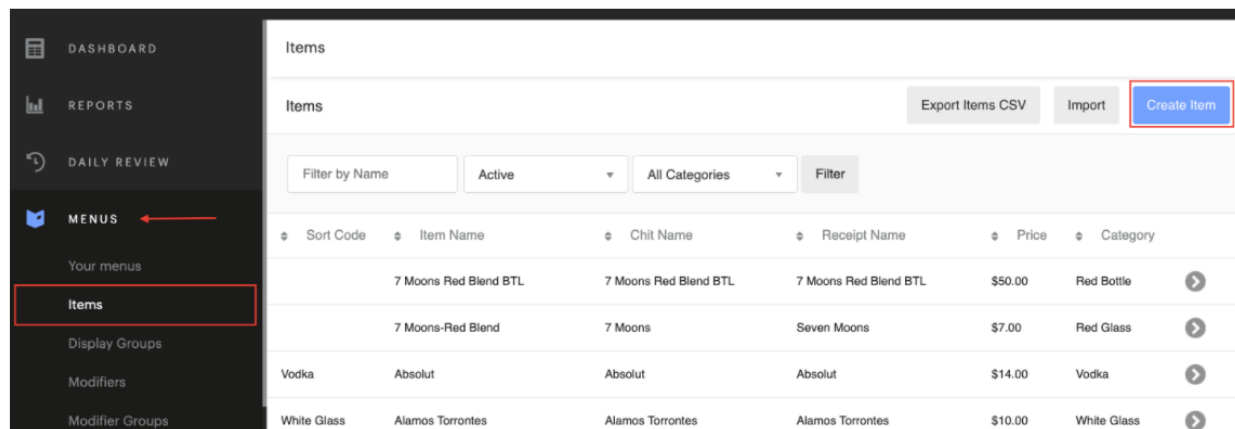


86. Upserve by Lightspeed includes a web-based point of sale (POS) builder system as described in Ex. M1 (“Upserve POS is the industry-leading cloud-based point-of-sale system used by thousands of restaurants”); Ex. M2 (illustrating Upserve Login) and Ex. M3 (describing how to create an item in the back office):

Create an Item

- Log into [HQ](#)
- Click on **Menus > Item**
- Click **Create Item**

Note: In order to edit Menus, you must have access to HQ and **your user profile must be assigned to a point of sale role that has HQ Access > Menus enabled**. To learn more about Users and Roles, see [Creating Users & Roles in New Upserve HQ](#).



See also Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. M4 (illustrating Upserve app in the Apple Store).

87. Vend by Lightspeed includes a web-based point of sale (POS) builder system as described in Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screen using Quick Keys to access your most popular products faster”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); see also Ex. K3 (“App Transport Security is becoming a requirement for App Store apps’.... When ATS is enabled, it forces an app

to connect to web services over an HTTPS connection rather than HTTP, which keeps user data secure while in transit by encrypting it.”); Ex. N2 (illustrating Vend app in the Apple Store).

88. Lightspeed has infringed and continues to infringe literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes a web server including POS builder software installed thereon.

89. Lightspeed Retail includes a web server including POS builder software installed thereon as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud”; “An all-in-one cloud-based POS system for retail”; and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”).

90. On information and belief, Lightspeed Restaurant includes a web server including POS builder software installed thereon as described in Ex. K1 (“Last-minute changes? With Lightspeed Restaurant’s cloud software, you don’t need to be on-site to make it happen. Desktop or iPad, your business follows you wherever you go.”; “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android....For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting

floor settings, customizing business settings and much more. To manage the point of sale's front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”):

The cloud-based restaurant point of sale system that puts you in charge anywhere.

With Lightspeed, the only servers in your restaurant are your waitstaff. Say goodbye to clunky hardware and move to a cloud-based system to keep access to your entire business no matter where you go.

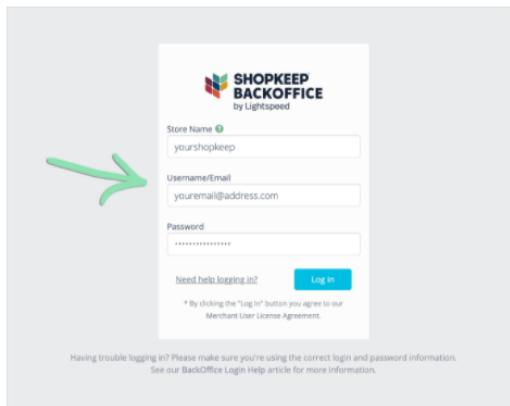
-
- ✓ Make **menu edits in seconds** and add new modifiers, combos and items
-
- ✓ Check on your **sales and performance** from your mobile POS with real-time cloud-based data
-
- ✓ Manage **multiple locations** from one system with Lightspeed's centralized cloud database

91. ShopKeep by Lightspeed includes a web server including POS builder software installed thereon as described and illustrated in Ex. L1, for example:

Log Into BackOffice

Log into BackOffice to add inventory, set up permissions and settings, view reporting, and manage your ShopKeep store.

- 1 Visit ShopKeepApp.com from a [supported device and web browser](#).
Bookmark this page in your browser so it is easier to find later.
- 2 Enter your BackOffice login information.



See also Ex. L2:

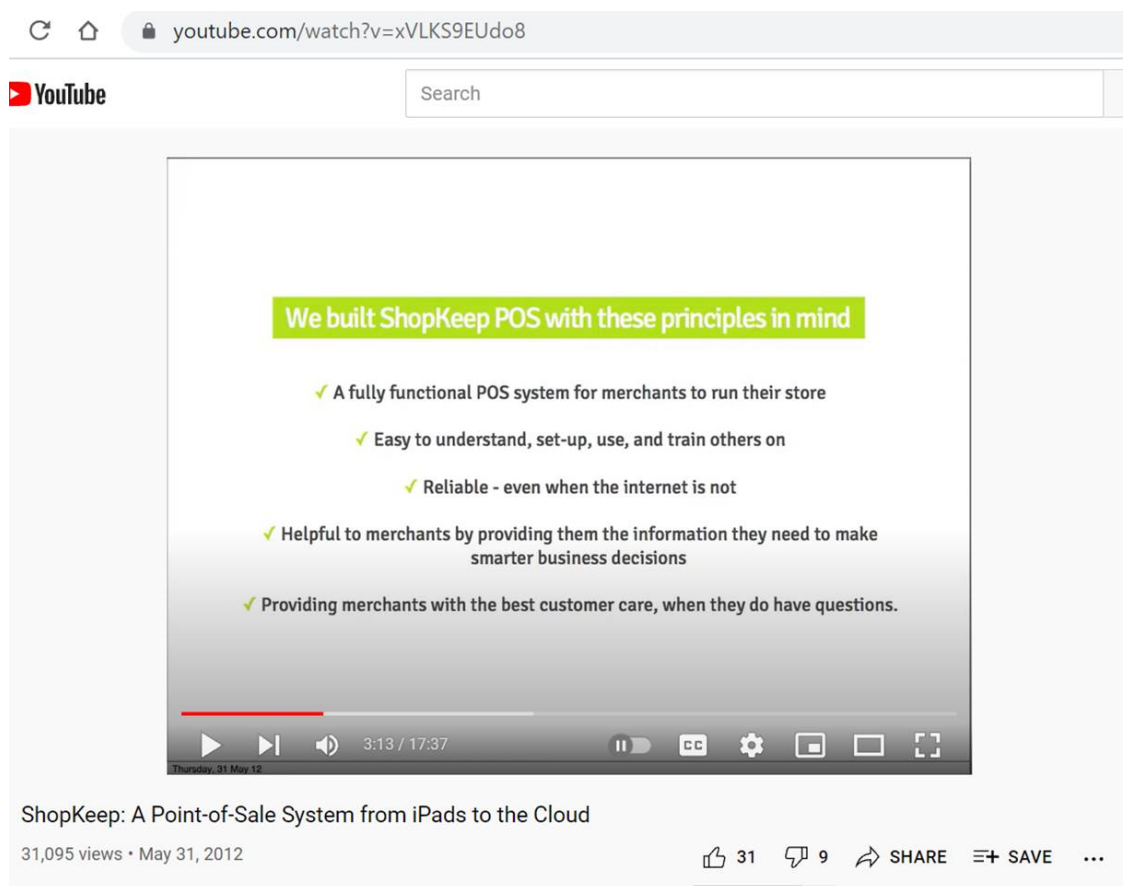
Build Your Menu

Before servers can start taking orders, you need to set up your menu in BackOffice or from the ShopKeep Register app (employees with the relevant BackOffice permissions only). Learn how to add the dishes you sell, add modifiers to cover every order option, and create item shortcuts for the register so staff can find what they need.

If you have questions about adding or managing menu items, visit our [Inventory FAQ](#).

See also Ex. L3 (“Basic inventory items are goods sold individually without multiple variations, such as different colors or materials. Add new basic items from BackOffice or the ShopKeep Register app to be able to sell them at the register and via other ShopKeep sales channels.”); *Ex. L4* (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices....BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox

web browsers.”; “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”); *see also* ShopKeep Podcast (referencing “cloud servers”):



92. Upserve by Lightspeed includes a web server including POS builder software installed thereon as described in Ex. M1 (“Upserve POS is the industry-leading cloud-based point-of-sale system used by thousands of restaurants”); Ex. M2 (illustrating Upserve Login); Ex. M5 (describing Upserve by Lightspeed as “Upserve’s cloud-based Restaurant POS system...”) and Ex. M6 (“[a] cloud-based restaurant POS is a point of sale system for restaurants that relies on an internet connection rather than the closed ‘on-premises’ networks of a traditional POS.”).

93. Vend by Lightspeed includes a web server including POS builder software installed thereon as described in Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online

and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screen using Quick Keys to access your most popular products faster”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); Ex. N4 (illustrating Vend Login).

94. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data.

95. Lightspeed Retail includes one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data as described and illustrated in Ex. K1 (“Ring up sales on any device-iOS, Android or desktop”):

Retail POS hardware designed for the cloud.

Get transactional fast with sleek retail POS system hardware options. Enhance your wireless experience with iPad-compatible printers, cash drawers and bluetooth scanners that work together seamlessly.

[Learn more >](#)



96. On information and belief, Lightspeed Restaurant includes one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data as illustrated in Ex. K1:

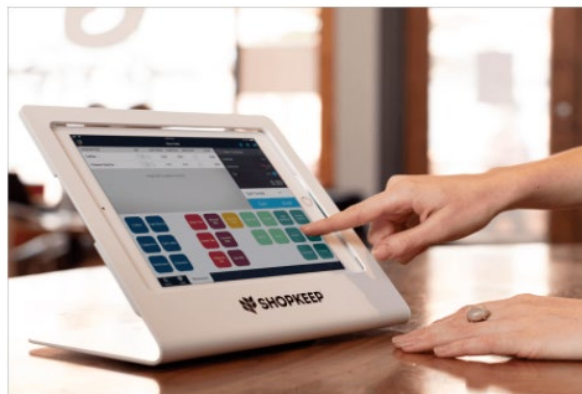
iPad POS hardware designed for the cloud.

Our restaurant iPad hardware options are designed to handle the hustle and bustle of busy shifts. And with the LiteServer, you can stay connected to your cloud-based data, even if the wifi goes down.

[Learn more >](#)

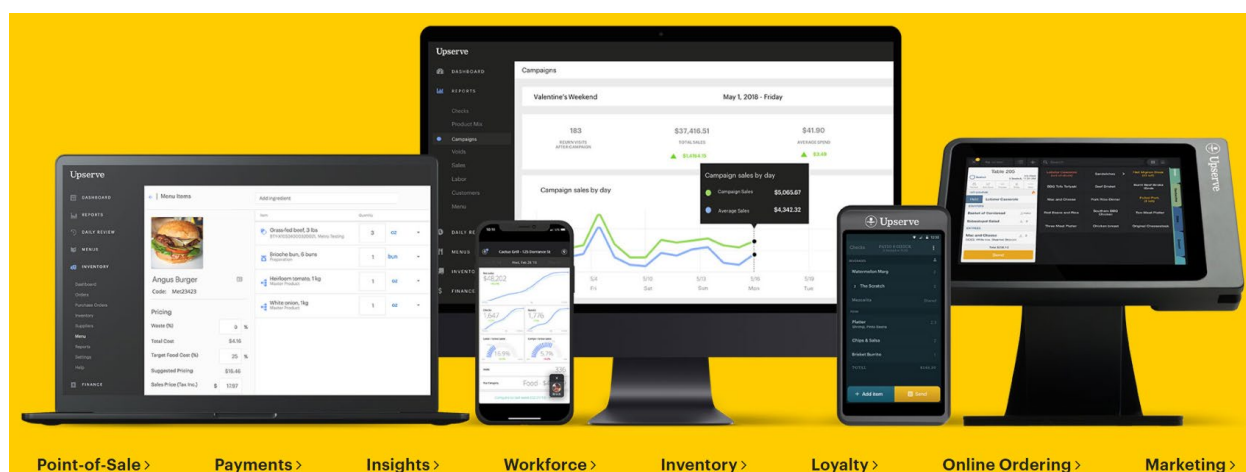


97. ShopKeep by Lightspeed includes one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data as described and illustrated in Ex. L4 (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.... BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”; “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”); Ex. L3 (“Basic inventory items are goods sold individually without multiple variations, such as different colors or materials. Add new basic items from BackOffice or the ShopKeep Register app to be able to sell them at the register and via other ShopKeep sales channels.”); Ex. L6:



98. Upserve by Lightspeed includes one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more

terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data as illustrated in Ex. M7:



See also Ex. M3:

Create an Item

- Log into [HQ](#)
- Click on **Menus > Item**
- Click **Create Item**

Note: In order to edit Menus, you must have access to HQ and **your user profile must be assigned to a point of sale role that has HQ Access > Menus enabled**. To learn more about Users and Roles, see [Creating Users & Roles in New Upserve HQ](#).

DASHBOARD

REPORTS

DAILY REVIEW

MENUS

Your menus

Items

Display Groups

Modifiers

Modifier Groups

Items

Export Items CSVImportCreate Item

Filter by Name

Active

All Categories

Filter

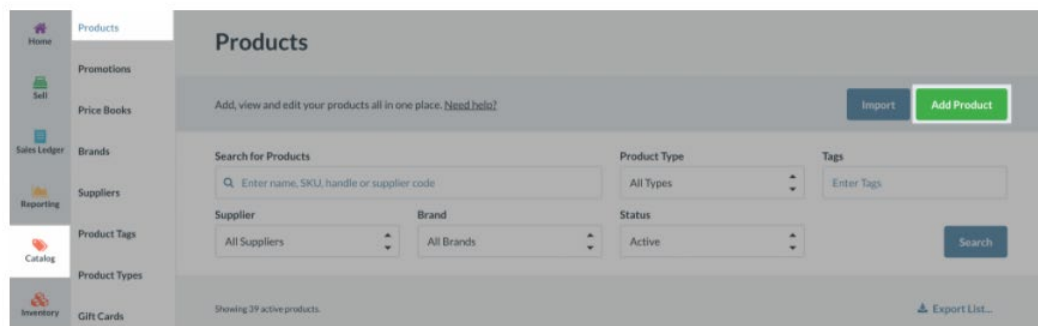
Sort Code	Item Name	Chit Name	Receipt Name	Price	Category
	7 Moons Red Blend BTL	7 Moons Red Blend BTL	7 Moons Red Blend BTL	\$50.00	Red Bottle
	7 Moons-Red Blend	7 Moons	Seven Moons	\$7.00	Red Glass
Vodka	Absolut	Absolut	Absolut	\$14.00	Vodka
White Glass	Alamos Torrontes	Alamos Torrontes	Alamos Torrontes	\$10.00	White Glass

99. Vend by Lightspeed includes one or more POS terminals generated by said POS builder software and said one or more POS terminals configured to be accessible at one or more terminal devices, said POS terminals configured to accept POS transactions and collect corresponding transaction data as illustrated in Ex. N1:



See also Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); Ex. N10 (illustrating adding a product):

To add a Standard Product individually into Vend, navigate to **Catalog -> Products** on the sidebar and click the **Add Product** button.



See also Ex. N6, Quick Key Set-up (describing how “[t]o add a Quick Keys product to your layout...”).

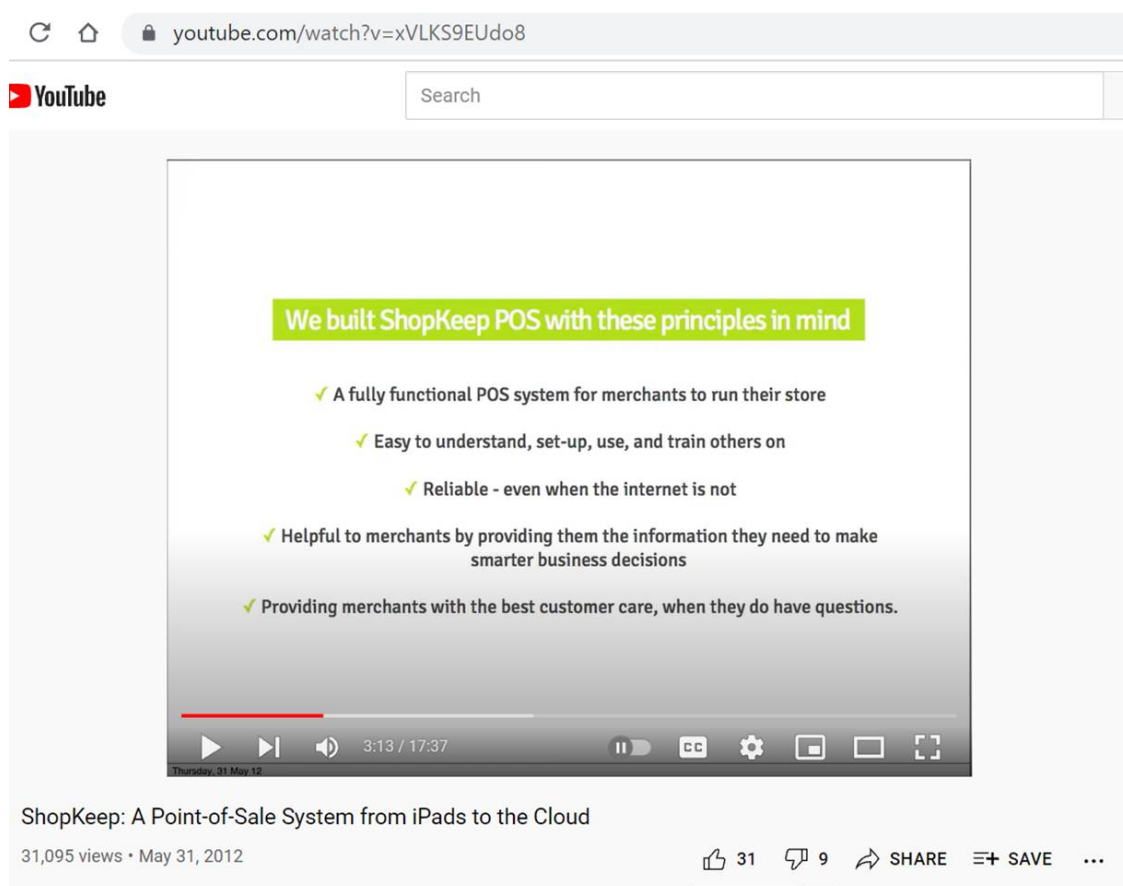
100. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes a POS builder interface configured to be accessible via network communication with said web server over a communications network.

101. Lightspeed Retail includes a POS builder interface configured to be accessible via network communication with said web server over a communications network as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud”; “An all-in-one cloud-based POS system for retail”; and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android [sic]. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”).

102. On information and belief, Lightspeed Restaurant includes a POS builder interface configured to be accessible via network communication with said web server over a communications network as described in Ex. K1 (“Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android [sic]...For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting

floor settings, customizing business settings and much more. To manage the point of sale's front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”).

103. ShopKeep by Lightspeed includes a POS builder interface configured to be accessible via network communication with said web server over a communications network as described in Ex. L4 (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices....BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”; “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”); *see also* ShopKeep Podcast (referencing “cloud servers”):



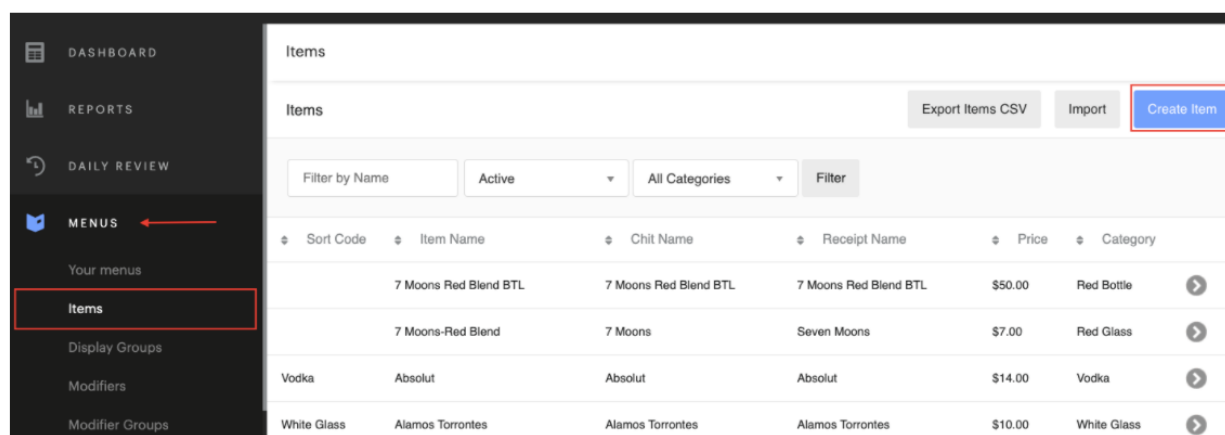
104. Upserve by Lightspeed includes a POS builder interface configured to be accessible via network communication with said web server over a communications network as described in

Ex. M1 (“Upserve POS is the industry-leading cloud-based point-of-sale system used by thousands of restaurants”); Ex. M2 (illustrating Upserve Login) and Ex. M3 (describing how to create an item in the back office):

Create an Item

- Log into [HQ](#)
- Click on **Menus > Item**
- Click **Create Item**

Note: In order to edit Menus, you must have access to HQ and **your user profile must be assigned to a point of sale role that has HQ Access > Menus enabled**. To learn more about Users and Roles, see [Creating Users & Roles in New Upserve HQ](#).



105. Vend by Lightspeed includes a POS builder interface configured to be accessible via network communication with said web server over a communications network as illustrated and described in Ex. N4 (illustrating Vend Login); Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screen using Quick Keys to access your most popular products faster”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”).

106. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network, wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS builder interface.

107. Lightspeed Retail includes wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network, wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS builder interface as described in Ex. K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”):

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[Learn more >](#)



See also Ex. K2 (“As a Lightspeed Retail POS merchant, one of the ways you can access your account is from a web browser...”); Ex. K7 (stating items can be added manually two ways: Desktop or iPad); Ex. K8:

Editing items

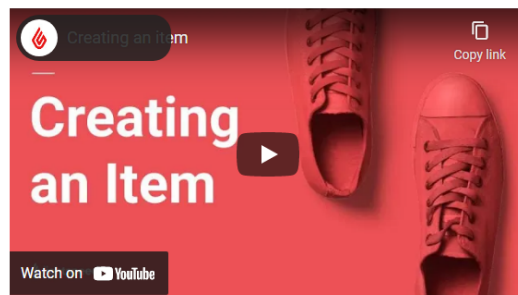
To quickly edit groups of items

1. From the main menu, click **Inventory** > **Quick Edit Items**.
2. Filter on the **criteria** for the items you want to display and click **Search**.

NOTE: You can click **Advanced** to do an advanced search.

3. Edit the **fields** from your search results. As you make changes to the items, they are saved.

See also Ex. K9:



To add items to your inventory

1. To add a new item:
 - From the main menu: click **Inventory** > **New Item**.
 - During a sale: from the main menu, click **Sales** > **New Sale** > **+New**.
2. Enter the item details.
3. After you save the item, you can access the left menu to add inventory and vendor ID details:
 - Use **Inventory** to add stock.
 - Use **Vendor IDs** to add identification numbers for your vendors and specify the default cost for each vendor.

108. On information and belief, Lightspeed Restaurant includes wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network, wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS builder interface as described in Ex. K1 (“Last-minute menu changes? With Lightspeed Restaurant’s cloud software, you don’t need to be on-site to make it happen. Desktop or iPad, your business follows you wherever you go.” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android.... For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale’s front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”):

The cloud-based restaurant point of sale system that puts you in charge anywhere.

With Lightspeed, the only servers in your restaurant are your waitstaff. Say goodbye to clunky hardware and move to a cloud-based system to keep access to your entire business no matter where you go.

- ✓ Make **menu edits in seconds** and add new modifiers, combos and items
- ✓ Check on your **sales and performance** from your mobile POS with real-time cloud-based data
- ✓ Manage **multiple locations** from one system with Lightspeed's centralized cloud database

109. ShopKeep by Lightspeed includes wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network, wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS builder interface as described in Ex. L4 (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.... BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”; “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”); Ex. L2:

Build Your Menu

Before servers can start taking orders, you need to set up your menu in BackOffice or from the ShopKeep Register app (employees with the relevant BackOffice permissions only). Learn how to add the dishes you sell, add modifiers to cover every order option, and create item shortcuts for the register so staff can find what they need.

If you have questions about adding or managing menu items, visit our [Inventory FAQ](#).

See also Ex. L3 (“Basic inventory items are goods sold individually without multiple variations, such as different colors or materials. Add new basic items from BackOffice or the ShopKeep Register app to be able to sell them at the register and via other ShopKeep sales channels.”).

110. Upserve by Lightspeed includes wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network, wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS builder interface as illustrated in

Ex. M2 (illustrating Upserve Login) and Ex. M3 (describing how to create an item in the back office):

Create an Item

- Log into [HQ](#)
- Click on **Menus > Item**
- Click **Create Item**

Note: In order to edit Menus, you must have access to HQ and **your user profile must be assigned to a point of sale role that has HQ Access > Menus enabled**. To learn more about Users and Roles, see [Creating Users & Roles in New Upserve HQ](#).

The screenshot shows the 'Items' management interface in Upserve HQ. The left sidebar has a 'MENUS' section with 'Items' highlighted. The main content area displays a table of items with the following data:

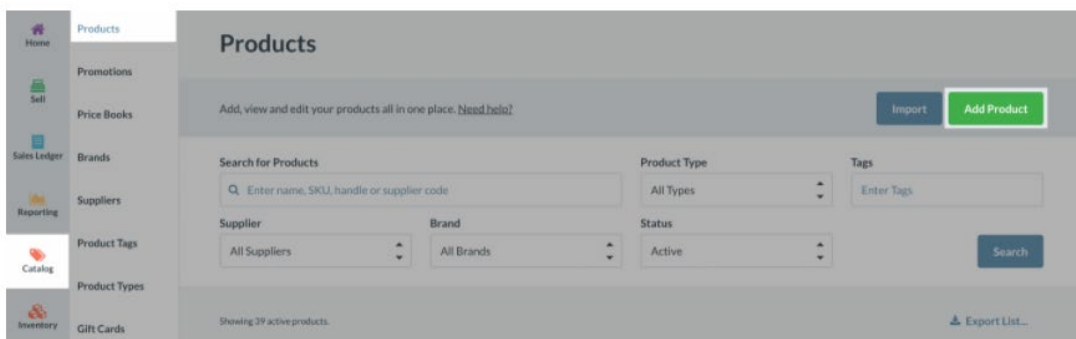
Sort Code	Item Name	Chit Name	Receipt Name	Price	Category
	7 Moons Red Blend BTL	7 Moons Red Blend BTL	7 Moons Red Blend BTL	\$50.00	Red Bottle
	7 Moons-Red Blend	7 Moons	Seven Moons	\$7.00	Red Glass
Vodka	Absolut	Absolut	Absolut	\$14.00	Vodka
White Glass	Alamos Torrontes	Alamos Torrontes	Alamos Torrontes	\$10.00	White Glass

See also Ex. M5:



111. Vend by Lightspeed includes wherein said POS builder interface is configured to be utilized to access said POS builder software for programmatically creating or modifying said one or more POS terminals in real time over the communications network, wherein said POS builder software is configured to interact with said one or more POS terminals over the communications network in order for the web-based point of sale (POS) builder system to perform functions in accordance with instructions sent from the POS builder interface as described in Ex. N1 (“Vend is the web-based point of sale system that makes it simple to sell to your customers, and keep them coming back to your store. It works on Mac or PC, online and offline, and is so easy to use you can get your staff selling in no time”; “Create your own sales screen using Quick Keys to access your most popular products faster”); Ex. N7 (“Compatible with any device with a web browser, including Mac, PC, and iPad.”); Ex. N4 (illustrating Vend Login); Ex. N10 (illustrating adding a product):

To add a Standard Product individually into Vend, navigate to **Catalog -> Products** on the sidebar and click the **Add Product** button.



See also Ex. N6, (describing how “[t]o add a Quick Keys product to your layout...”).

112. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the ’012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which

includes wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network.

113. Lightspeed Retail includes wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network as described in Ex. K1 (“Ring up sales on any device- iOS, Android or desktop”):

Retail POS hardware designed for the cloud.

Get transactional fast with sleek retail POS system hardware options. Enhance your wireless experience with iPad-compatible printers, cash drawers and bluetooth scanners that work together seamlessly.

[Learn more >](#)



See also K1 (“Lightspeed Retail’s cloud POS software keeps you in control of everything wherever you go. Whether you have one location or one hundred, it’s all on the cloud” and “Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android. For Lightspeed Retail, this includes being able to manage inventory, run reports, track customer information, oversee work orders and adjust the settings of your store. The Retail POS can be used on any device-through a web browser on desktop, iOS or Android, or through the Lightspeed Retail iPad app.”).

114. On information and belief, Lightspeed Restaurant includes wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network as described in Ex. K1 (“Can I access everything remotely? Yes! Because Lightspeed’s POS software is cloud-

based, you can access your backend manager from anywhere, on any device with a web browser whether on desktop, iOS or android.... For Lightspeed Restaurant, this includes viewing reports, managing menus, entering orders, adjusting floor settings, customizing business settings and much more. To manage the point of sale's front end, you will need the Lightspeed Restaurant iPad app, however, the back end can be managed on both desktop and iPad.”):

The cloud-based restaurant point of sale system that puts you in charge anywhere.

With Lightspeed, the only servers in your restaurant are your waitstaff. Say goodbye to clunky hardware and move to a cloud-based system to keep access to your entire business no matter where you go.

- ✓ Make **menu edits in seconds** and add new modifiers, combos and items
- ✓ Check on your **sales and performance** from your mobile POS with real-time cloud-based data
- ✓ Manage **multiple locations** from one system with Lightspeed's centralized cloud database

115. ShopKeep by Lightspeed includes wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network as described and illustrated in Ex. L4 (“BackOffice works best on desktop and laptop computers, tablets, and mobile devices.... BackOffice works best on the latest version of the Google Chrome, Safari, and Firefox web browsers.”); “BackOffice is the online portal where merchants manage their businesses in ShopKeep.”); Ex. L9, Reporting (describing transactions reports that “enables you to view all sales and returns with details such as items, discounts, customer, employee, and total associated with each.”):

Transactions					Mar 10, 2020 - Mar 10, 2020 @ 12:00am - 11:59pm			
Filter by <input type="text"/>					<input checked="" type="radio"/> Closed Sales <input type="radio"/> Saved Sales		Export ▼	
Time	Sales Channel	Register	Cashier	Operation Type	Amount	Discount	Tax	Total
03/10/20, 6:51 PM	In Store	1	Jill Jones	sale	16.95	1.00	1.42	17.37
03/10/20, 6:51 PM	In Store	2	Rob Brown	sale	18.70	0.00	1.66	20.36
03/10/20, 6:45 PM	In Store	2	Rob Brown	sale	20.00	0.00	1.78	21.78
03/10/20, 6:37 PM	In Store	1	Holly Williams	sale	16.33	0.00	0.00	16.33
03/10/20, 6:27 PM	Other		Rob Brown	sale	10.00	0.00	0.89	10.89
03/10/20, 6:21 PM	In Store	1	Jill Jones	return	8.00	0.00	0.71	8.71
03/10/20, 6:20 PM	In Store	2	Rob Brown	sale	15.00	0.00	1.33	16.33
03/10/20, 6:16 PM	Invoicing		Holly Williams	sale	32.66	0.00	0.00	32.66
03/10/20, 6:13 PM	eCommerce	2	Mike Ross	sale	17.85	0.00	1.59	19.44
03/10/20, 6:03 PM	In Store	1	Jill Jones	sale	20.00	0.00	1.78	21.78
03/10/20, 5:56 PM	In Store	1	Jill Jones	sale	21.50	1.00	1.84	22.34
03/10/20, 5:41 PM	eCommerce	1	Jill Jones	sale	12.95	0.00	1.15	14.10

116. Upserve by Lightspeed includes wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network as described in Ex. M8 (describing four sections to “find your Upserve Lightspeed POS reports”—Dashboard, Reports, Daily Review, Finance); Ex. M5 (describing Upserve by Lightspeed as “Upserve’s cloud-based Restaurant POS system...”) and Ex. M6 (“[a] cloud-based restaurant POS is a point of sale system for restaurants that relies on an internet connection rather than the closed ‘on-premises’ networks of a traditional POS.”).

117. Vend by Lightspeed includes wherein said POS transactions and corresponding transaction data from said one or more POS terminals are configured to be transmitted to said web server via the communications network as described in Ex. N4 (illustrating Vend Login); Ex. N9, Vend POS (“[r]eal-time reporting for smarter business decisions”); Ex. N8, Vend Reporting (illustrating sales reporting):

Gain actionable insights with Vend Reporting

- ✔ Build your own reports

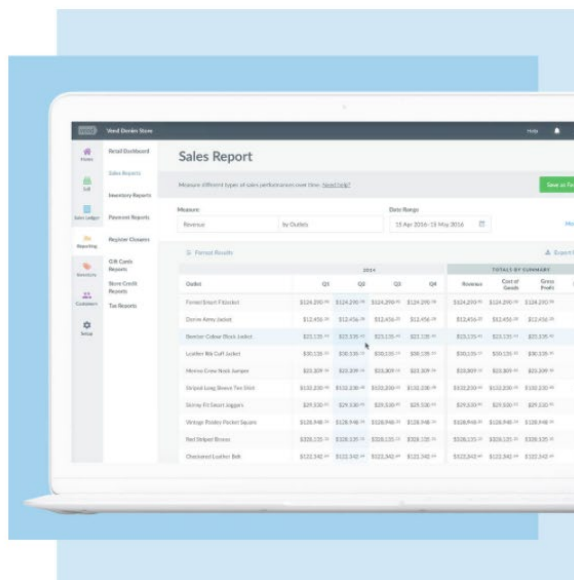
Customize your sales reports and find out exactly what you need. See how your stores are performing, what products are making you the most money, and discover your top salespeople — all from one easy-to-use platform.

- ✔ Drill down into your data

Want to verify a hunch? Vend reporting lets you play around with variables and filters to get to the bottom of things, and help you identify trends or problem areas that need attention.

- ✔ Understand your customers better

Find out who your top customers are, how much they spend, and what they're buying. Want to boost customer loyalty and retention? Vend has features and apps that allow you to personalize each shopper's experience based on their purchase history and buying habits.



118. Lightspeed has infringed and continues to infringe, literally, directly or indirectly, or under the doctrine of equivalents, one or more claims, including at least Claim 1 of the '012 Patent by making, using, selling, offering to sell, and/or importing the Accused Products, which includes wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals.

119. Lightspeed Retail includes wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals as described in Ex. K12, Sales History:

Basics on the sales history view

The sales history view provides a 30-day history of all your sales in one place. Accessible to all employee roles, it simplifies the everyday sales responsibilities of owners, managers, and associates with its filters, viewable details and helpful links to other areas of Retail POS.

As an owner or manager, the sales history view allows you to easily filter and analyze the day-to-day sales activity in your store. If specific sales have details that are of interest to managers and owners (e.g. refunds, discounts, notes), they're highlighted from the list visually with the use of icons and badges. This makes the specific sales stand out so you can investigate them further in the side panel.

As an associate, the sales history view allows you to quickly continue in-progress sales and find completed sales to start refunds or exchanges.

To access the sales history view, click **Sales > Sales history** from the main menu.

See also K12:

Montreal

Yesterday

All

In progress

Complete

Refunds and exchanges

Partial

Filters

Search for a sale or scan a receipt

YESTERDAY

11:38 PM

John Smith

#2200000000878

1 x lightspeed t-shirt

11:35 PM

John Smith

#2200000000877

1 x gift card

11:32 PM

John Smith

#2200000000876

No items

11:20 PM

John Smith

#2200000000875

-1 x pants, 1 x lightspeed t-shirt, 1 x work order

10:58 PM

John Smith

#2200000000874

1 x lightspeed t-shirt

Discounted \$2.00

10:53 PM

John Smith

#2200000000873

1 x lightspeed back t-shirt

Discounted \$2.00

10:50 PM

John Smith

#2200000000872

1 x lightspeed back t-shirt

Discounted \$2.00

10:49 PM

John Smith

#2200000000871

No items

In progress

4:43 PM

John Smith

#2200000000870

1 x lightspeed back t-shirt

In progress

4:05 PM

John Smith

#2200000000869

1 x lightspeed back t-shirt

Discounted \$2.00

Close

1 item for \$9.20

COMPLETE

#2200000000874

Jan 27, 2020 at 10:58 PM

EMPLOYEE Jason

REGISTER Register1

John Smith

View details

5145555555

johnsmith@gmail.com

1 item

Refund or exchange

SOLD

Lightspeed T-Shirt

\$10.00 x 1 = \$10.00

\$8.00

SUBTOTAL

\$10.00

DISCOUNTS

-\$2.00

TOTAL BEFORE TAX

\$8.00

TAX

Tax1 | \$8.00 @ 5.00% \$0.40

Tax2 | \$8.00 @ 9.97% \$0.80

Total

\$9.20

DEPOSIT

John Smith's account

\$10.00

PAYMENT

Cash

\$19.20

BALANCE

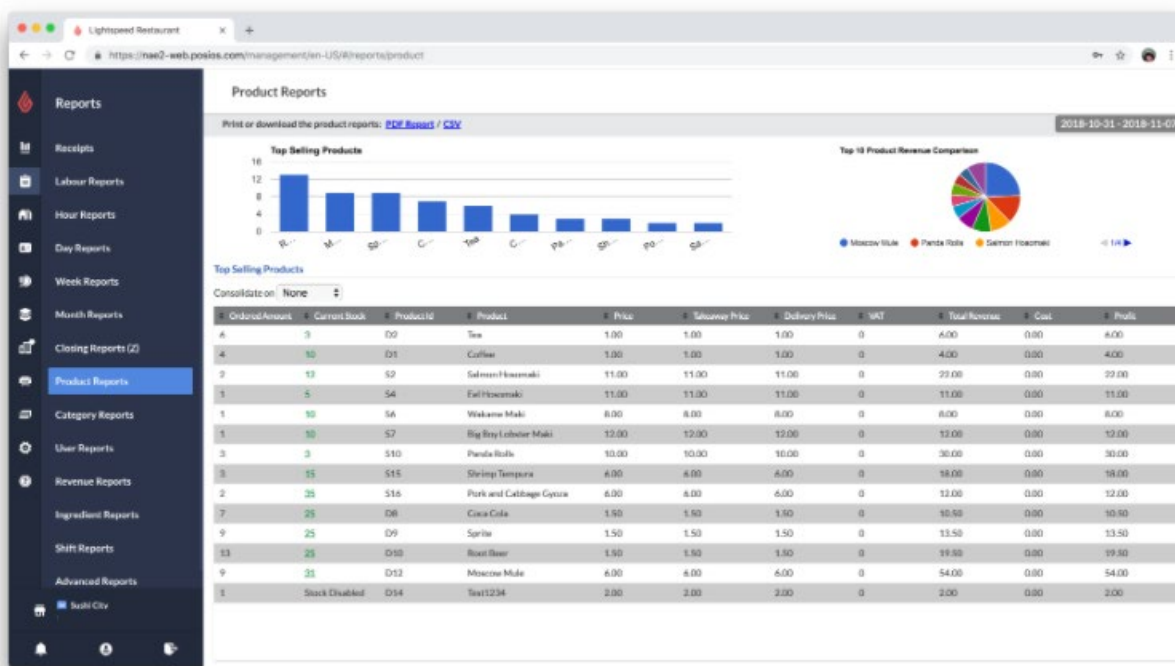
\$0.00

English

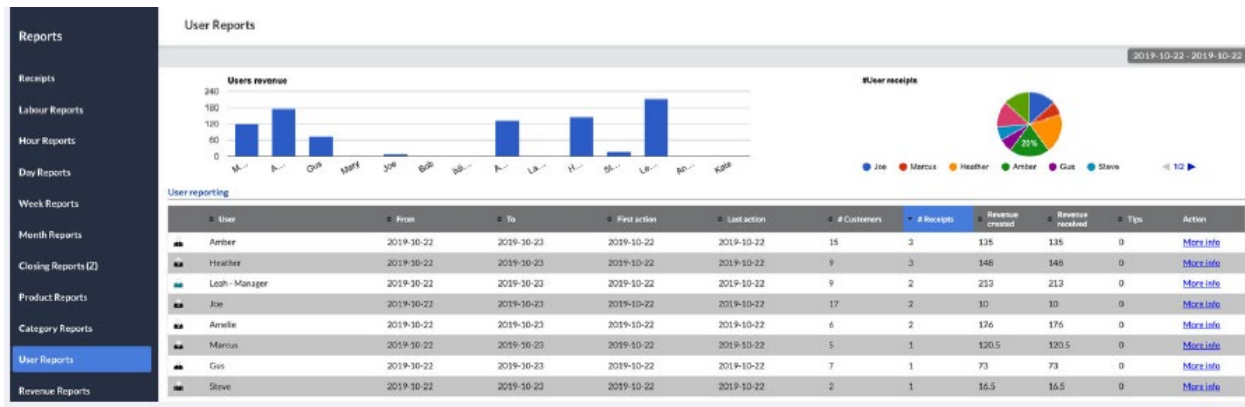
120. On information and belief, Lightspeed Restaurant includes wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals as illustrated in Ex. K13, Product Report:

Product report

The Product Reports page displays the revenue, cost, profit, and tax data by product for a date range. You can view and edit product stock levels from the product list.



See also Ex. K14 (“admin users with the configured permissions will be able to view summary reports for the POS along with other user shift reports. Other users who interact with the POS simply to process orders are only able to view their own user sales summary report.”); Ex. K15, User Report:



121. ShopKeep by Lightspeed includes wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals as described and illustrated in Ex. L9 (describing transactions reports that “enables you to view all sales and returns with details such as items, discounts, customer, employee, and total associated with each.”):

Transactions									
Mar 10, 2020 - Mar 10, 2020 @ 12:00am - 11:59pm									
Filter by		<input checked="" type="radio"/> Closed Sales <input type="radio"/> Saved Sales		Export v					
Time	Sales Channel	Register	Cashier	Operation Type	Amount	Discount	Tax	Total	
03/10/20, 6:51 PM	In Store	1	Jill Jones	sale	16.95	1.00	1.42	17.37	
03/10/20, 6:51 PM	In Store	2	Rob Brown	sale	18.70	0.00	1.66	20.36	
03/10/20, 6:45 PM	In Store	2	Rob Brown	sale	20.00	0.00	1.78	21.78	
03/10/20, 6:37 PM	In Store	1	Holly Williams	sale	16.33	0.00	0.00	16.33	
03/10/20, 6:27 PM	Other		Rob Brown	sale	10.00	0.00	0.89	10.89	
03/10/20, 6:21 PM	In Store	1	Jill Jones	return	8.00	0.00	0.71	8.71	
03/10/20, 6:20 PM	In Store	2	Rob Brown	sale	15.00	0.00	1.33	16.33	
03/10/20, 6:16 PM	Invoicing		Holly Williams	sale	32.66	0.00	0.00	32.66	
03/10/20, 6:13 PM	eCommerce	2	Mike Ross	sale	17.85	0.00	1.59	19.44	
03/10/20, 6:03 PM	In Store	1	Jill Jones	sale	20.00	0.00	1.78	21.78	
03/10/20, 5:56 PM	In Store	1	Jill Jones	sale	21.50	1.00	1.84	22.34	
03/10/20, 5:41 PM	eCommerce	1	Jill Jones	sale	12.95	0.00	1.15	14.10	

122. Upserve by Lightspeed includes wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals as described in

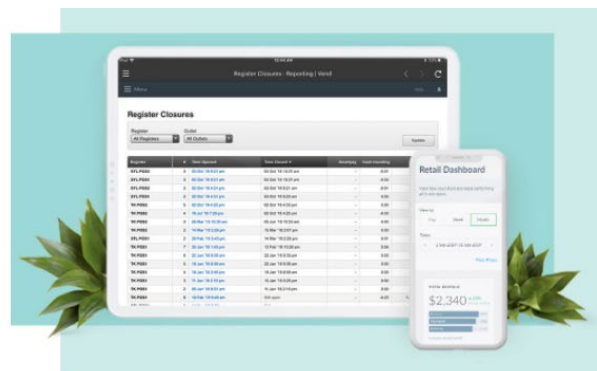
Ex. M8, Upserve Reporting (describing four sections to “find your Upserve Lightspeed POS reports”—Dashboard, Reports, Daily Review, Finance; “In each report, you can change the report date and apply filters, such as Day Parts or Revenue Centers.”); Ex. M9, Upserve Revenue Center (“How does Upserve POS know which revenue center received sales? Revenue centers are attached to specific terminal stations, so tabs can be associated with revenue centers.”).

123. Vend by Lightspeed includes wherein each POS transaction is correlated with corresponding transaction data occurring at said one or more POS terminals as described in Ex. N8 (“Track daily sales with register closure summaries and sales history reports.”):

Never miss a metric. Get a daily summary of each store's performance with Vend's reporting capabilities

Keep an eye on your daily transactions

Track daily sales with register closure summaries and sales history reports. Confirm payment amounts, check for discrepancies, and add notes about the day. Track on-account sales, layaways, returns and refunds.



JURY DEMAND

Plaintiff hereby requests a trial by jury on issues so triable by right.

PRAYER FOR RELIEF

WHEREFORE, CloudfChange LLC respectfully requests the following relief:

A. Enter judgment that Lightspeed POS Inc. has willfully infringed the '640 Patent and the '012 Patent;

B. Enter an Order enjoining Lightspeed POS Inc., its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Lightspeed POS Inc., who receive notice of the order from further infringement of the '640 Patent and the '012 Patent;

C. Award CloudfChange LLC damages in an amount sufficient to compensate it for Lightspeed POS Inc.'s infringement of the '640 Patent and the '012 Patent, including enhanced damages, together with pre-judgment and post-judgment interest and costs in accordance with 35 U.S.C. § 284;

D. Award CloudfChange LLC an accounting for acts of infringement not presented at trial and an award by the Court of additional damages for any such acts of infringement;

E. Declare this case to be "exceptional" under 35 U.S.C. § 285 and award CloudfChange LLC its attorneys' fees, expenses, and costs incurred in this action; and

F. Award CloudfChange such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: October 22, 2021

Respectfully submitted,

By: /s/ John A. Yates

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